

DOCUMENT RESUME

ED 297 242

CG 021 024

TITLE Older Americans Act Amendments of 1987. House of Representatives, One Hundredth Congress, First Session.

INSTITUTION Congress of the U.S., Washington, D.C. House Committee on Education and Labor.

REPORT NO House-R-100-97

PUB DATE 18 May 87

NOTE 69p.

PUB TYPE Legal/Legislative/Regulatory Materials (090) -- Reports - General (140)

EDRS PRICE MF01/PC03 Plus Postage.

DESCRIPTORS *Federal Aid; *Federal Legislation; *Federal Programs; *Older Adults

IDENTIFIERS Congress 100th; *Reauthorization Legislation

ABSTRACT

This document contains a report by the House of Representatives' Committee on Education and Labor concerning the bill H.R. 1451 to amend the Older Americans Act of 1965 to authorize appropriations for the fiscal years 1988, 1989, 1990, and 1991; and to reauthorize the Native American Programs Act of 1974 for an additional 4 years at a level of such sums as may be necessary. Included in the report are an introduction, a discussion of committee action, an explanation of the background and need for the legislation, an explanation of the bill, a statement of committee approval, an oversight statement, an inflationary impact statement, oversight findings and recommendations of the Committee on Government Operations, an estimation of the cost of the legislation, and a section-by-section analysis of the bill. The text of the bill is included, with amendments in italic type, and the title of the bill is amended to reflect the amendments to the text of the bill. The committee's recommendation that the bill as amended be passed is expressed. Minority, dissenting, and individual views are included. (NB)

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ED 297242

100TH CONGRESS
1st Session

HOUSE OF REPRESENTATIVES

REPORT
100-97

OLDER AMERICANS ACT AMENDMENTS OF 1987

MAY 18, 1987.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HAWKINS, from the Committee on Education and Labor,
submitted the following

REPORT

together with

MINORITY, DISSENTING, AND INDIVIDUAL VIEWS

[To accompany H.R. 1451]

[Including cost estimate of the Congressional Budget Office]

The Committee on Education and Labor, to whom was referred the bill (H.R. 1451) to amend the Older Americans Act of 1965 to authorize appropriations for the fiscal years 1988, 1989, 1990, and 1991, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendment to the text of the bill is a complete substitute therefor and appears in italic type in the reported bill.

The title of the bill is amended to reflect the amendment to the text of the bill.

I. INTRODUCTION

In reporting H.R. 1451, the Committee proposes to continue the Older Americans Act of 1965. As reported by the Committee, H.R. 1451 would authorize the Older Americans Act for fiscal years 1988, 1989, 1990, and 1991, and the Native American Programs Act for fiscal years 1988, 1989, 1990, and 1991.

91-006

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II. COMMITTEE ACTION

Three hearings on the reauthorization of the Older Americans Act were held in Washington, D.C. on March 9, 1987, March 23, 1987, and April 6, 1987.

Testifying at the March 9 hearing were: Professor William D. Bechill, U.S. Commissioner on Aging (1965-1969), Associate Professor, School of Social Work and Community Planning, University of Maryland at Baltimore; Jill Duson, Maine Long Term Care Ombudsman, President, National Association of State Long Term Care Ombudsman Programs; Toby Fletcher, Association of Nutrition and Aging Service Programs, Special Assistance to the Executive Director of the Baltimore City Commission on Aging Responsible for Nutrition and Institutional Services; Donna McDowell, Director, Wisconsin Bureau of Aging, Chair, National Association of State Units on Aging Public Policy Commission; Russell Proffitt, Director, Heritage Area Agency on Aging, Iowa, appearing on behalf of the National Association of Area Agencies on Aging.

Appearing at the March 23 hearing were: Carol Fraser Fisk, U.S. Commissioner on Aging, Department of Health and Human Services; Elaine M. Brody, Associate Director of Research, Philadelphia Geriatric Center, Clinical Professor of Psychiatry, Medical College of Pennsylvania, Former President, Gerontological Society of America; Honorable Ron Wyden, Member of Congress.

Those testifying at the April 6 hearing included: Honorable John Paul Hammerschmidt, Member of Congress; Dolores Battle, Administrator, Office of Job Training Programs, Department of Labor; Sonia Crow, Associate Administrator, Food and Nutrition Service, U.S. Department of Agriculture; Eugene I. Lehrman, Board Member, American Association of Retired Persons; William R. Hutton, Executive Director, National Council of Senior Citizens; Donald F. Reilly, Senior Vice President, National Council on Aging; Samuel J. Simmons, President, National Caucus and Center on Black Aged, Inc.

The Committee also held three field hearings on reauthorization of the Older Americans Act of 1965. The hearing took place in Montpelier, Vermont; Flint, Michigan, and Algona, Iowa.

Witnesses in Montpelier, Vermont included: Joel Cook, Director, Vermont Office on Aging; Pat Elmer, Director, Vermont Associates; Nona Estrin, Vermont Office on Aging; Karen Kitzmiller, Vermont Office on Aging; Patrick Flood, Vermont Office on Aging; James Matteua, Director, Southeastern Area Agency on Aging; Jean Dedam, Director, Northeast Area Agency on Aging; Craiz Hammond, Director, Central Vermont Area Agency on Aging; Mara Coven, Director, Champlain Valley Area Agency on Aging; Jerry Kirk, Chair, Governor's Elderly Advisory Committee; Dr. Lee Rathburn-McCuin, Director, Social Workers Program, University of Vermont.

The following witnesses testified at the reauthorization hearing in Flint, Michigan: Olivia P. Maynard, Director, Michigan Office of Services to the Aging; Clarice Jones, Immediate Past President, American Association of Retired Persons; Hollis Turnham, State Long Term Care Ombudsman; Keith McCall, Executive Director, Michigan Coalition on Aging Organizations; Joanne Hartranft,

Mayor's Office on Aging and Handicapped, Suzanne Zerwick, Director, Lapeer County Commission on Aging; Valaria Conorly, Executive Director, Valley Area Agency on Aging; Charlotte Williams, Member, Michigan Commission on Aging; Jean Blue, Staff Assistant, Senior Citizens Services, Flint Community Schools; Steve Walker, Director, Senior Citizens Food Program, Genesee County Community Action Agency; John Peterson, Director, Program, Development, Advocacy and Planning Division, Michigan Office of Services to the Aging; Al Rightly, Chairperson, Michigan Commission on Aging; Barbara Clatterbaugh, Chair, Shiawassee Board of Commissioners' John Crews, Senior Blind Programs, Michigan Department of Labor; Nondi Orazi, The Information Center; Mary Sawicki, Director, Area Agency on Aging, Region III and President, Area Agency on Aging Association of Michigan; Joe Benavidez, Michigan Office on Aging; Mary James, Michigan Office of Services to the Aging; Phyliss Byrd, Assistant Director, Shiawassee County Council on Aging; Danice Chisholm, Executive Director, Care-Givers; and Al Kleyps, Executive Director, Trio Council on Aging.

Witnesses at the April 24 hearing in Algona, Iowa included: Greg Anliker, Director, Iowa Lakes Area Agency on Aging; Rich Motz, Director, Area 4 Agency on Aging; Vince Weber, Department of Elder Affairs; Tony Accurso, Board Member, Elderbridge Agency on Aging; Sonia Crow, Associate Administrator, Food and Nutrition Service, U.S. Department of Agriculture; John Merz, Director, Mountain Plains Regional Office, Food and Nutrition Service, U.S. Department of Agriculture; Jean Beatty, Nutrition Director, Area Agency on Aging of North Central Iowa; Marvin Schlitzer, Vice-President, Swiss Valley Farms, Inc. Davenport, Iowa; Karl Johannsen, Mason City, Iowa; Joseph Bradley, Algona, Iowa; Paul James, Algona, Iowa; Neva Steven, Algona, Iowa; Elmer Vermeer, Sioux Center Department of Elder Affairs; Rosemary McDay, Director, Professional Nursing Service, Spencer, Iowa; Sheryl Thu, Director, Spencer Municipal Hospital, Community Health Services, Clay County; Ruth Lindstedt, Director, Amicare Home Health Services—North Iowa, Inc., Mason City, Iowa.

H.R. 1451 was introduced by Mr. Kildee on March 5, 1987. The original co-sponsors are Mr. Roybal and Mr. Biaggi. The bill was approved by the Subcommittee on Human Resources on April 23, 1987. On May 12, 1987, it was considered by the full Education and Labor Committee and ordered reported with an amendment by voice vote.

III. BACKGROUND AND NEED FOR LEGISLATION

With the enactment of the Older Americans Act in 1965, Congress created a new federal program specifically designed to meet the social services needs of older people. Although older persons may receive services under many other federal programs, the Act is the major vehicle for the organization and delivery of social and nutrition services to this group, and for the development of community service employment opportunities for low-income elderly.

Title I of the Act sets forth policy goals aimed at improving the lives of all older Americans with regard to income, health, housing, employment, retirement, and community services. Title II estab-

lishes the Administration on Aging to act as the chief federal agency advocate for the elderly and the Federal Council on Aging to advise the President and the Congress regarding the needs of older persons.

Title III, which receives about 70 percent of the Act's total funding, authorizes grants to state and area agencies on aging to develop a wide range of supportive services (including in-home, access, and legal services), nutrition services, and multipurpose senior centers for older persons. Services are to be targeted to those older persons with the greatest economic or social needs, with particular attention to low-income minority individuals. In addition to the authorization of specific services, Title III requires state and area agencies to act as advocates on behalf of older persons.

Title IV of the Act authorizes the Commissioner on Aging to award funds for training, research, and demonstration projects on aging. Title V authorizes funds to subsidize part-time community services jobs for unemployed low-income persons 55 years and over. Title VI authorizes funds for social and nutrition services to older Indians, and Title VII authorizes funds for health education activities on behalf of older persons.

The original 1965 legislation created the Administration on Aging and authorized three grant programs for social services, for research and demonstration, and for training of personnel. The Act has been amended 11 times since then—in 1967, 1969, 1972, 1973, 1974, 1975, 1977, 1978, 1981, 1984, and 1986.

The first major amendments occurred in 1972 when Congress created the National Nutrition Program for the Elderly. In 1973 the Act was significantly revised and expanded to require States to establish sub-state planning and service areas and area agencies on aging which were responsible for the development of a comprehensive and coordinated social service system for older persons at the community level. The 1973 amendments also established the Federal Council on Aging and created legislative authority for the community service employment program which had previously operated as a demonstration initiative under the Economic Opportunity Act.

The 1978 amendments made substantial changes in the Act by consolidating the previously separately authorized titles for social services, nutrition services, and multipurpose senior centers under Title III with the intention of improving coordination among the various programs under the Act. The legislation also added a new Title VI authorizing grants to Indian tribal organizations for social and nutritional services to older Indians.

The 1981 amendments modified the Title III program to give States more flexibility in the administration of funds for supportive and nutrition services, by allowing States to transfer funds between their separate allotments for these services, and by allowing area agencies to determine an "adequate proportion" of funds for certain specified priority services (access, in-home, and legal services). These amendments also placed an authorization ceiling on amounts available for U.S. Department of Agriculture (USDA) commodities reimbursement program under Title III.

The last major reauthorization of the Act occurred in 1984. Amendments included a number of changes in the various service

programs under Title III, including provisions to increase further the ability of States to transfer funds between their separate allotments for supportive and nutrition services; to specify particular attention to the needs of low-income minority older persons; to require area agencies to conduct activities to facilitate coordination of community-based long-term services; and to strengthen the long-term care ombudsman program. In addition, the 1984 amendments modified the manner in which funds for state administration are allocated to state agencies on aging, specified a statutory limitation on the amount of funds which could be used for administration of Title V, and created a new title for health education and training activities for older persons.

The 1986 legislation increased the authorization of appropriations for the USDA commodity program for fiscal years 1985-87 and set the level of reimbursement at 56.76 cents for each meal served under Title III for each of those years.

Authorization of appropriations for the Older Americans Act expires at the end of FY 1987. Based on the testimony and other information received by the Subcommittee on Human Resources, the Committee believes that programs under the Act are accomplishing their objectives and that therefore the Act should be extended for a four year period through FY 1991. The Committee also notes that the demand for services under Older Americans Act programs is expected to continue to grow. The number and percentage of those over 65 relative to other age groups is increasing dramatically, with the age 85-plus group, which are most likely to require assistance, growing most rapidly of all.

The purpose of the Native American Programs Act of 1974 (P.L. 93-644, as amended) is to promote the goal of economic and social self-sufficiency for American Indians, Hawaiian Natives, and Alaskan Natives. To accomplish this purpose, the Act authorizes grants to support locally developed projects, training and technical assistance, and research, demonstration, and evaluation activities. The Committee believes that the Native American Programs Act has been effective in its development of opportunities for increased employment of Native Americans, Indian business development, strengthening tribal government functions and management goals, and construction and renovation of housing. The authorization for the program expired on September 30, 1986, but a one-year extension of the program was included in the FY 1987 continuing resolution. H.R. 1451 would provide for a four year reauthorization of the Native American Programs Act at levels of such sums as may be necessary.

IV. EXPLANATION OF THE BILL

REAUTHORIZATION OF THE OLDER AMERICANS ACT

H.R. 1451 reauthorizes all titles of the Older Americans Act for four years. It also creates a new Part D in Title III authorizing funds for in-home services to the frail elderly, a new Part E authorizing funds for special needs, and a separate authorization for the long-term care ombudsman program.

TITLE II—ADMINISTRATION ON AGING

Administration on Aging

H.R. 1451 proposes elevating the relationship between the Commissioner on Aging and the Secretary of Health and Human Services by providing for a direct reporting relationship between the two positions.

The Commissioner's existing data collection functions are expanded to include such factors as information regarding the types of services being provided, the amount of funds being spent, and the number of individuals who are receiving services. The Commissioner is also required to collect data on the extent to which area agencies on aging are satisfying the requirements of Section 306(a)(2) and 306(a)(5)(A).

The Commissioner may carry out this requirement either directly or by contract. In order to facilitate the collection process and to help ensure the uniformity of the data being collected, the Committee urges the use of the existing "Taxonomy on Aging," which provides common definitions for services which have already been developed by the Administration on Aging. The Committee expects data to be collected from the states on an annual basis. However, given the large number of area agencies on aging, a sampling of one-third of the agencies each year would be a reasonable approach to collecting data on the local level. The statistical data collected is to be included as part of the Commissioner's annual report to the President and the Congress.

Recognizing the added knowledge that can be gained from data collected over longer periods of time, the Committee further encourages the Administration on Aging to coordinate its activities under this section with previously collected data from the National Data Base on Aging.

A new provision is added to Section 205, Administration of the Act, to authorize the Commissioner to publish annually for public comment proposed specific goals to be achieved through the implementation of the Act.

Assessment of unsatisfied demand for services at senior centers

As a further expansion of data collection functions, the Commissioner is required to assess the unsatisfied demand for services provided at our nation's senior centers. To fulfill this new requirement, the Committee intends for the Commissioner to, either directly or by contract, determine unsatisfied demand for Title III supportive services at senior centers which are current or former recipients of Title III funding. It is anticipated that this assessment would include the identification of these centers and sites, a description of their geographic distribution, and a determination—through means of questionnaires or examinations of waiting lists or other quantitative indices—of the extent of unsatisfied demand for the services provided at these centers or sites. In geographic areas where such centers and sites do not exist, the Commissioner may utilize limited sample surveys or other measures. The Committee does not expect the Commissioner to conduct large scale surveys of the nation's population of senior citizens to satisfy the requirements of this section.

The Committee recognizes that not all multi-purpose senior centers are funded by or receive services provided under Title III of the Act, and therefore, urges the Commissioner to include, to the fullest extent practical, information obtained from and pertaining to multi-purpose senior centers funded by sources other than the Act. These would include centers funded by Title XX of the Social Security Act and other federal, state, local, and private sources.

DRG prospective payment system study

The bill requires the Secretary of Health and Human Services, together with the Commissioner on Aging and others, to undertake a study to determine the impact of Medicare's diagnostic related group (DRG) prospective payment system on community-based programs such as Older Americans Act. The study should use ongoing research and existing data from state and area agencies on aging to the maximum extent possible.

Testimony before the Subcommittee on Human Resources indicated that, as a result of the DRG system, area agencies and other Older Americans Act service providers are facing significant increases in the number of persons they are not serving. The Committee hopes that this study will be able to determine the amount of savings actually incurred in the Medicare program in the four years in which the DRG system has been in effect and how these savings might be used to meet the community care needs of recently discharged Medicare patients.

Caregiver referral study

The dual trends of greater mobility of the population as a whole and an aging population have made and will make long distance caregiving an important element in the continued involvement of families in the care of frail and disabled older persons.

In recognition of the need to support family involvement in caregiving, the Committee requires the Commissioner to undertake a study to determine the efficacy of using the Older Americans Act network as a nationwide referral system to assist family caregivers in gaining access to needed social services on behalf of geographically remote older members. The study shall include an evaluation of the need for a uniform telephone listing of area agencies on aging, a mechanism for linking caregivers to area agencies in other parts of the country, as well as a means of providing feedback to caregivers about the needs of older family members, the services provided to these family members, and what further action may be needed on the part of the caregiver.

TITLE III—GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING

Long-term care Ombudsman Program

The Committee recognizes that long-term care ombudsman programs established pursuant to the Older Americans Act (OAA), as amended, have effectively investigated and resolved complaints and problems on behalf of residents of nursing homes and other long-term care facilities. A number of entities, including the Institute of Medicine, in its congressionally-mandated study "Improving the

Quality of Care in Nursing Homes", issued in 1986, strongly recommended major improvements in the OAA ombudsman program.

The Committee concurs with these recommendations and has reported out a series of amendments to the OAA to strengthen the only program in the Act specifically targeted to meet the needs of long-term care facility residents. The amendments ensure that the substate, or local, ombudsman projects that exist in most states are an integral component of the State's Office of the State Long-Term Care Ombudsman, and as representatives of the "Office," are assured of: immunity for good faith performance of their responsibilities; have access to long-term care facilities, residents, and their records; and are provided with legal advice as well as counsel for representation when needed. The amendments also prohibit willful interference with representatives of the Office, and retaliation and reprisals against any resident or employee for having filed a complaint with, or provided information to, an ombudsman.

Because of the Committee's concern over the importance of training, the bill directs that training must be provided before ombudsmen investigate complaints, and that such training address crucial skills related to the investigation and resolution of complaints.

In recognition of the importance of avoiding the appearance or existence of potential conflicts of interest that may interfere with an ombudsman's ability to fully investigate and resolve complaints and problems, the Committee requires that States identify and remedy any real or potential conflicts. The Committee clarifies existing language regarding ombudsman responsibility to provide information and recommendations on behalf of facility residents to appropriate parties.

The Congress has established protection and advocacy systems for the developmentally disabled and the mentally ill in each State. Since many of these people reside in long-term care facilities, they have many problems in common with the institutionalized elderly. To address such common problems, the Committee expects that ombudsman programs will coordinate their services, where appropriate, with the State's protection and advocacy systems.

The Committee also expects that State agencies with responsibility for licensure and certification of long-term care facilities cooperate with ombudsmen in providing access to appropriate documents, especially those that are public in nature and those related to complaints referred or initiated by ombudsmen.

The Committee is concerned with the overall lack of attention by the Administration on Aging (AoA) to the OAA's ombudsman program, including the limited and untimely information provided to Congress in annual reports. The Committee is pleased that AoA has recently elected to fund a national technical assistance effort for ombudsmen and expects that national technical assistance and training will be on-going. Language governing the contents of AoA's annual report to Congress on the ombudsman program has been strengthened in the bill.

The Committee is also concerned that ombudsman programs have provided only limited services to residents of board and care facilities, despite the OAA requirement that this population be served. The Committee directs AoA to engage in a study of ombuds-

man services in this area and report findings and corresponding recommendations to Congress and to the States.

Because of the importance with which ombudsman activities are viewed, the Committee amendment calls for a specific authorization of funds for States' ombudsman programs. The Committee expects that funding for ombudsman programs will increase and has reported language to ensure that regardless of the authorization level in a given year, OAA funds spent for ombudsman services in a State will be no less than the amount expended in the State for ombudsman services in fiscal year 1987. Consistent with the general provision adopted by the Committee, before funds from any new authorization can be appropriated, Title III funding for ombudsman services shall be at the preceding fiscal year level plus five percent for inflation.

In-home services for frail older individuals

The bill proposes the expansion of non-medical services for frail elderly individuals under the Older Americans Act, including victims of Alzheimer's disease and other neurological and organic brain disorders, and their families. These in-home services are intended as a preventive measure to enable older individuals with functional difficulties to remain in their homes instead of being institutionalized. A recent study by the Department of Health and Human Services found that 4.6 million elderly had some kind of functional limitation.

H.R. 1451 adds a new Part D to Title III, authorizing grants to States for non-medical in-home services for frail older persons. These services may include assistance in such areas as bathing, dressing, eating, mobility, or performance of daily activities such as shopping, cooking, cleaning, or managing money. In-home respite care for families and visiting and telephone reassurance are additional examples of allowable services. While current law establishes in-home services as a priority service under Title III-B, the Committee believes that a separate authorization is necessary in order to expand the Act's commitment to home-based social services and focus new resources in this area.

H.R. 1451 provides for funds to be awarded to States based on the current Title III formula, that is, based on the State's population 60 years or over as compared to all States. The bill requires the State agency on aging to develop eligibility criteria for use of the funds for in-home services. The criteria must take into account the following factors: age; greatest economic needs; non-economic factors contributing to frailty; and non-economic factors contributing to the need for services.

Part D funds are to be used by states to supplement efforts already being spent or that would otherwise be expended by federal, state or local authorities including area agencies on aging which have in their planning and service areas existing services which primarily serve the victims of Alzheimer's disease and other neurological and organic brain disorders, and their families. It is the Committee's intent that existing service providers be used to the maximum intent possible in carrying out any of the activities under this section.

The Committee recognizes that programs such as Medicare and Medicaid support a range of in-home services for the functionally impaired elderly. However, these programs, as currently structured, are limited in their ability to respond to the social service needs of the chronically impaired elderly. For example, Medicare's benefits are focused primarily on acute medical care needs. To the extent that Medicare covers home care, it does so only when a need for skilled nursing care or physical or speech therapy is first demonstrated. State Medicaid programs, on the other hand, can cover a broader range of in-home services, but only for those persons who meet income-related eligibility requirements. Many frail elderly persons who are not poor enough to qualify for Medicaid and who do not meet Medicare's medical-related criteria need in-home services to live independently. Older American Act services are targeted strictly on the elderly and may be provided without the health-related restrictions of Medicare and without the income tests of Medicaid. For these reasons, Title III services may be used to assist persons who are ineligible under other programs.

Assistance for special needs

The bill calls for a new Part E in Title III which authorizes the Commissioner on Aging to make grants to the States to assist them in meeting special needs of older individuals. Special needs funds may be utilized by the States in designing a wide range of programs and services which complement ongoing Older Americans Act activities. While the current terms of the Older Americans Act enumerate many specific services and programs which must be conducted for the benefit of senior citizens, the new resources provided through Part E are unearmarked, giving the States maximum flexibility and discretion in their use. Allowable activities include those which would advance the goals and objectives of the Act for a State's senior citizens. Under the terms of the Committee bill, \$25 million is authorized to be appropriated annually for fiscal years 1988 and 1989 and "such sums" in fiscal year 1990 and 1991.

Outreach to SSI, Medicare and food stamp recipients

The bill authorizes a one-time outreach effort under Title III to ensure that more low-income elderly have an opportunity to receive the Supplemental Security Income (SSI), Medicaid or food stamp benefits for which they are eligible. The Committee intends that these provisions will be implemented without duplication of effort at the various levels of administration. The Administration on Aging will obtain information from the Social Security Administration regarding SSI eligibility; from the Department of Agriculture, information regarding the food stamp program; and from both agencies, information regarding their training of staff. State agencies on aging are responsible for providing relevant information on State Medicaid and other State programs.

The State agencies on aging also will determine how many and which area agencies will be funded according to the criteria contained in the bill. The Committee is concerned that funds allocated to each area agency for the purposes of this section be sufficient to cover the expenses of staff, training, materials and transportation. While public service announcements and media efforts are certain-

ly allowable activities for outreach, the Committee intends that priority will be placed on direct contact with older persons in the community who may be eligible for benefits.

Area plan requirements

The bill requires periodic public hearings on activities and projects carried out under the area plan as part of the evaluation process which must already be conducted. Area plan requirements are also expanded to include the coordination of certain programs with local services for older victims of Alzheimer's disease. In addition, a new requirement is added for area agencies on aging to survey and disseminate information on programs in local institutions of higher education in which senior citizens are entitled to participate at either no or very low cost.

H.R. 1451 further requires that area agencies on aging include provisions in their area plans to improve coordination between mental health services provided under the Act and services provided by community mental health centers and other public and private non-profit agencies. The Committee has added this new requirement in recognition of the fact that as many as 25 percent of the elderly population may be in need of mental health services.

State plan requirements

H.R. 1451 proposes several new State plan requirements. These amendments would require (1) periodic public hearings on activities and projects carried out under State plans; (2) assurances on the part of the state agency that area agencies on aging will conduct efforts to facilitate the coordination of community-based long-term care services for those who are at risk of institutionalization or who could be returned to their communities if provided with community-based services.

Advocacy

The Committee wishes to emphasize that in its clarification of the advocacy responsibilities of state and area agencies on aging, it maintains its position that political activity is not included as part of advocacy. The Committee does not intend to permit area agencies on aging to use federal funds for the following purposes: 1) attempts to influence the outcomes of any federal, state or local election, referendum, initiative or similar procedure through in kind or cash contributions, endorsements, publicity or similar activity; 2) attempts to establish, administer, contribute to, or pay the expenses of a political party, campaign, political action committee, or other organization established for the purpose of influencing the outcomes of elections; or 3) attempts to influence the outcome of federal or state legislation through lobbying which would result in specific amounts of funds under the Older Americans Act being used solely to accomplish a lobbying objective other than reviewing, monitoring, evaluating, and commenting on federal, state, and local plans, budgets, regulations, programs, laws, levies, hearings, policies and actions which affect or may affect older individuals, or other than recommending any changes in such plans, budgets, regulations, programs, laws, levies, hearings, policies, and actions.

The advocacy responsibilities spelled out in this legislation pertain to policy issues at the federal, state or local level which directly affect older individuals.

The distinction between policy and politics is especially important in the context of the advocacy responsibilities for states and area agencies to "recommend any changes" in policies. It is the Committee's intent that the recommendations must relate to the policy and not to any individual or political organization which may be responsible for such policy. Since many vulnerable and frail older adults are unable to represent their own needs, due to their invisibility in their community or their physical limitations, they are in great need of advocates.

Targeting, outreach, and area agency administrative costs

The Committee is extremely disturbed by data indicating a decline in participation in Older Americans Act programs by low-income and minority individuals and H.R. 1451 contains several provisions intended to improve targeting efforts to these groups. These provisions include requiring service providers to take a more active role in targeting activities and in clarifying targeting provisions throughout the bill to focus efforts on elderly individuals "with the greatest economic or social needs, with particular attention to low income minority individuals" when determining how funds will be distributed. In addition, State plans must include information on how the needs of low-income minority elderly individuals were met the previous year, and outreach responsibilities to those in greatest social or economic need including low-income minorities are expanded at both the State and area agency level. The Committee bill also raises the administrative allowance for area agencies on aging from the current 8.5 percent to 10 percent. It is expected that these additional funds will be used primarily to improve outreach activities.

Legal assistance

The bill provides that States and state agencies on aging may not require legal assistance providers under the Act to reveal any information that is protected by attorney-client privilege. Agencies would not be prohibited from collecting any information they need for the purposes of evaluation, planning, or needs assessment. That kind of information may be obtained readily without the disclosure of the names and addresses of clients served with Title III funds.

The Committee's intent in including the new confidentiality provisions is to clarify that names, addresses and telephone numbers of clients served with Older Americans Act funds will remain privileged information. The Committee understands that some legal assistance providers may be reluctant to contract with area agencies without this assurance. Many older individuals might be hesitant to ask for the legal advice and counsel they need if they thought others would have access to their identifying information. The assurance of confidentiality makes it easier for older persons to seek the assistance they need to resolve their legal problems, and makes it easier for legal assistance providers to serve them in good faith.

The Committee also is concerned about reported drops in funding for legal assistance activities under the act since 1980, particularly

as funding for all services under Title III has increased incrementally during this same period. To further clarify the Committee's intent that the provision of Section 306(a)(2)(c) be carried out, the bill adds a definition of "adequate proportion" as it related to legal services expenditures under this section and provides certain hearing and reporting requirements when waivers are granted. The Committee also encourages States to set a minimum percentage of Part B funds that each area agency in the state must spend on legal assistance.

State administrative funds

As indicated in the conference report on the 1984 reauthorization, the Committee continues to be concerned about the use of Title III services funds for state administration. States should not be required to use their Title III waiver authority in order to maintain support for state administration. The Committee intends that the Commissioner continue to make available Title IV funds for education, training and legal assistance activities to States whose allocation of title III funds is not sufficient to hold the State harmless at the level which was available for state administration from all funding sources in fiscal year 1984.

Adult day care

H.R. 1451 contains a provision that amends Section 17 (Child Care Food Program) of the National School Lunch Act for the purpose of making certain adult day care centers eligible for USDA meal assistance. Adult day care centers generally provide less than 24 hour a day services to frail elderly and disabled persons—services which permit them to remain in their communities. At present, there are approximately 1,300 adult day care centers nationwide; the average age of persons served by these centers is 72. Over two-thirds of the participants are women whose incomes are well below the poverty line—averaging \$458 per month. The purpose of expanding the Child Care Food Program to include assistance for day care centers for frail and disabled adults is to improve the nutritional quality of the meals served to these most deserving senior citizens.

Commodities authorization

In determining the authorization levels for the commodity program, the Committee recognizes that some flexibility is necessary since the exact number of meals that will be served cannot be predetermined or predicted with accuracy. Therefore, the authorization levels are set higher than the estimated number of meals for the fiscal year covered by the bill in order to have sufficient funds available. The reimbursement level of 56.76 cents per meal established by the bill is to remain fixed throughout the authorization period of the bill. H.R. 1451 does not modify the Department's authority to ratably reduce the reimbursement level so that each meal served receives an equal payment for the fiscal year; however, it is the Committee's expectation that the Congress will be notified in advance should a shortfall in funds be anticipated in order that supplemental funding may be considered.

Title III Transfer Authority

The bill freezes the overall transfer authority between Parts B and C of Title III to not more than 30 percent. Data presented to the Committee indicates that virtually all of the funds being transferred are coming out of the Title III C-1 congregate meals program and are being moved to other programs. Congress has maintained a strong commitment to the congregate meals program throughout the history of the Older Americans Act, and has attempted over the years to provide the program with a stable appropriation. The Committee recognizes the need for flexibility to meet the demand for supportive and in-home services. However, as a strong case can be made for funding each Title III service program on its own merits, the Committee would prefer this approach so that adequate funding for all Title III services can be assured.

TITLE IV—TRAINING, RESEARCH AND DISCRETIONARY PROJECTS AND PROGRAMS

Transportation study

Testimony indicated that transportation services continue to be a major need of older individuals. Therefore, the bill requires the Commissioner on Aging to undertake comprehensive study of the direct and indirect costs of transportation under the Older Americans Act, as well as the extent to which these funds are used to leverage additional funds and resources from other federal and state sources. The Committee wishes to use the information from this study to determine how much Older Americans Act funding is used for transportation services, and the relative importance of Older Americans Act transportation services to the overall transportation needs of older persons.

Special projects in comprehensive long term care

In requiring under Title IV (Section 423(a)(1)) that the Commissioner make grants for special projects in comprehensive long term care, it is the Committee's expectation that such grants be made to fund centers, and not simply individual projects, specializing in long term care research, education, and training. The Committee further expects: that such grants be awarded on a competitive basis; that center activities place particular emphasis on research, education, and training that support providers and services funded under the Older Americans Act; that center activities focus on areas of specialty within long term care and not be duplicative or limited to a particular geographical region; and that the Commissioner will formally evaluate center performance annually and factor results into renewal decisions.

TITLE V—COMMUNITY SERVICE EMPLOYMENT PROGRAMS FOR OLDER AMERICANS

In response to testimony regarding the potentially serious impediments to program operation imposed by the existing caps on Title V administrative costs, H.R. 1451 freezes the cap at 13.5 percent and establishes specific criteria to be used to evaluate when the cap is to be waived. The Committee wishes to make clear that

it continues to expect that Title V funds will be administered efficiently. However, it also recognizes that administrative costs must be provided at realistic levels that enable effective program operation.

The bill also excludes Title V wages from consideration for purposes of determining eligibility, or computing monthly rents, for Title V workers residing in federally-assisted senior citizen housing.

A further amendment clarifies that education services as defined by Title V include literacy tutoring.

Programs for child and adult day care and respite care

Over the past twenty years, there has been a sizable growth in our elderly population, and changes in our health care system and our technology have improved our quality of life. In light of these changes in our aging society, and recognizing the unique interests, talents and skills of our growing elderly population, the Committee encourages the provision of opportunities for eligible Title V participants to assist in the delivery of day care services for children and adults and respite care for families. This unique balance of health and social services in day care and respite care is clearly beneficial to both caregivers and recipients.

With more and more families made up of two working parents and growth in the number of working single parents, child care has become an essential and valued service. One creative way to tap the valuable resources of our older Americans and fulfill our expanding child care need is to utilize older Americans in this caregiver role. Providing an opportunity for the old to share a lifetime of experience with the young is a unique benefit of the intergenerational approach.

The Committee is very impressed with the information it has received regarding the use of Title V workers in child and adult day care and in the provision of respite care services. Programs such as Gramma's Day Care Center in Memphis, Tennessee, which employed Title V workers in all positions except administrative staff, illustrate just how effective the Title V program can be in meeting both the needs of older Americans and their communities. This program was so successful that it no longer has to rely on Title V monies to pay its workers' salaries.

For older Americans who are frail and less able to care for themselves, the availability of adult day care and respite services for their families can be essential in assuring they can maintain their independence. Between 80 and 90 percent of personal care for older Americans is provided by family members. These caregivers often request adult day care and respite care services to relieve them briefly from their caregiver role. When caregivers are ill, exhausted, or suffering from burn-out from their responsibilities, they may seek institutional care for the elderly individual if alternatives are not available. Thus, support for adult day care and respite care is in keeping with the goals of the Older Americans Act since these programs are essential in providing temporary relief to the caregiver and thereby assuring that the frail or disabled are not unnecessarily institutionalized.

Throughout its twenty-two year history, the Older Americans Act has successfully nurtured creative ideas fostering the valuable human resources of older Americans in our communities. Encouraging opportunities for older Americans volunteers and Title V workers in adult day care, child day care and respite services areas is a responsible and creative response to this growing need in our society. Therefore, the Committee strongly encourages the U.S. Department of Labor to make available information on existing projects in these areas so that local communities can be aware of these possibilities when considering Title V placements.

The Committee also wants to assure that under Section 306(a)(6)(E) of the Act, area agencies on aging provide opportunities for older volunteers to assist in the delivery of day care services to adults and children, and respite care services for caregiving families.

TITLE VI—GRANTS FOR INDIAN TRIBES

H.R. 1451 repeals several provisions of existing law to clarify that Indians are eligible for services under both Titles III and VI. The deletion of these provisions corrects and unintended effect of existing law which can result in making ineligible for Title III services older Indians who could be served by a Title VI grant but are not, or in making the older Indians who receive only one type of service under Title VI ineligible for any other services under Title III. These changes also are intended to assist tribal organizations and area agencies to broaden the scope of their cooperation in developing more comprehensive serviced delivery. The proposed authorizations figures are set at levels to (1) permit existing grant levels to be restored to the 1984 level of \$100,000, and (2) permit the participation of 24 additional tribes in Title VI each year.

Additional committee concerns

The Subcommittee considered testimony submitted as part of its reauthorization hearings which sought the inclusion of specific statutory language recognizing certain groups with handicapping conditions. These groups include the mentally retarded, the mentally impaired, the developmentally disabled, those with speech, language, and hearing impairments, the blind and visually impaired, and others. The Committee recognizes the need to identify and assist eligible older persons in all of these specific categories. As an example, it is estimated that 50 percent of the legally blind persons in the United States are elderly.

The Committee wishes to point out that the targeting language already in the Act includes special recognition of those with physical and mental disabilities. This broader description was specifically written in the law in order to ensure that any eligible person with a physical or mental disability could be included under the definition of greatest social need. The Committee continues to believe that this nonspecific approach is preferable so that no older person risks exclusion from the targeting provisions. It continues to be the Committee's intent that elderly individuals with special needs be included as part of efforts to target those in greatest social need.

The Committee is aware of existing innovative projects that address the special needs of elderly individuals with handicapping conditions. For example, the University of Akron has developed a program to assist older mentally retarded persons in making the transition from work to retirement in an atmosphere that fosters independence and community participation. The Committee encourages representatives of innovative projects and area agencies on aging to coordinate to the fullest extent possible to bring services to these special groups.

The Committee is concerned about the growing numbers of elderly persons afflicted with functional impairments, including mental impairments, and wishes to ensure that these impaired elderly have appropriate access to Older Americans Act programs and services. Therefore, the Committee wishes to clarify that the term "health" as it appears in the Act includes "mental health." The Committee further expects that there will be (1) consultation and cooperation between the Administration and Aging and the Alcohol, Drug Abuse and Mental Health Administration, and (2) inclusion of elderly mental health in Title IV Training, Research, and Discretionary Projects and Programs.

White House Conference on Aging

This section authorizes the President to call a White House Conference on Aging in 1991 to be administered by the Secretary of Health and Human Services in consultation with the Commissioner on Aging and the Director of the National Institute on Aging.

Since the first Conference was called by President Harry S. Truman in 1950, the Congress, the Executive Branch, and the Nation have relied on these Conferences to provide direction, leadership and innovation in federal policy for the elderly. In 1958, this Committee approved legislation to request President Dwight D. Eisenhower to call a White House Conference on Aging in 1961. Many of the proposed recommendations from the Conference (such as Medicare and Medicaid, the Older Americans Act, and annual increases in Social Security benefits) have shaped the federal aging agenda since that time. Conferences in 1971 and 1981 further defined and developed the federal agenda. As demographers project that the portion of the population age 55 or older will continue to increase well into the next century, the need for a national strategy session to address the implications of an aging population is imperative.

It is the intent of the Committee that the 1991 conference examine issues relating to or affecting aging, and develop recommendations for comprehensive national policies. The Conference shall be conducted in such manner as to permit delegates to participate in each issue area addressed during the Conference. The Committee believes that the Conference should focus on a limited number of issues of a determinable scope and foster detailed consensus recommendations.

This Committee is aware of the importance of the delegates to the Conference. It is the Committee's intention that every effort will be made to ensure a broad cross-section of opinions and views within the Aging community. As in the past, the Committee anticipates vigorous debate concerning the direction of federal aging

policy. This is the main purpose of the Conference and should be encouraged in order to assure that the recommendations and the Conference report are truly representative of the community of thought regarding federal policy for the elderly.

Previous White House Conferences have been preceded by State conferences designed to develop issues for consideration at the national Conference. The Committee recognizes the value of, and does not intend to preclude, pre-conference activities. However, it encourages planners to consider conducting State and local Conferences during the period immediately following the national Conference so as to provide States a greater opportunity to provide recommendations regarding the impact of national policy goals on particular regional, State, and local needs.

REAUTHORIZATION OF NATIVE AMERICAN PROGRAMS ACT

H.R. 1451 reauthorizes the Native American Programs Act of 1974 for an additional four years at a level of such sums as may be necessary. New provisions have been added regarding applications for assistance and rulemaking.

Multi-year Grants

The bill authorizes the Administration for Native Americans (ANA) to award multi-year grants. For grantees attempting to operate projects which require more than one year of funding, having to apply and compete every year presents unnecessary difficulties. Thus, the Committee's intent is that this type of grant be available to those applicants who can demonstrate that a limitation of the grant to one year would significantly reduce their project's effectiveness. The ANA Commissioner should give first priority to funding continuation grants. Although there is no limitation in the bill on the duration of multi-year grant awards, the Committee recommends a maximum of three years.

Review of Applications

H.R. 1451 requires ANA to formally establish its review process for evaluating applications for assistance. Consistent with ANA's current practice, the amendment also requires that in selecting reviewers the Commissioner give preference to American Indians, Hawaiian Natives, and Alaskan Natives. In no case may any official or employee of ANA sit on a review panel. Following the review of applications, each review panel must rank them in the order of their relative merit. These lists will be submitted to the Commissioner.

The bill leaves to the Commissioner's discretion the method to be used in combining the lists if more than one review panel is used. The Committee wishes to strongly emphasize that there is no intention to limit the Commissioner's discretion in making grants. The Commissioner may select any of the applications for funding in any order. However, in each instance that the Commissioner selects an application for funding ahead of another application which the review panel(s) identified as superior in merit, the Commissioner must make a record explaining the reasons why the application was selected before the other application(s) ranked superior in

merit. After making the grant awards, the Commissioner is required to submit, upon request of the Chairman of the House or Senate Committees of jurisdiction through the Speaker of the House of Representatives or the President pro tempore of the Senate, the rankings submitted to the Commissioner by the review panel(s), a list of the applications approved for awards, and the record containing the Commissioner's reasons for deciding not to follow the list of ranked applications.

Rulemaking

The bill establishes a new section concerning rulemaking. The provisions require that the Native American Programs Act be subject to the Administrative Procedure Act. The Administration for Native Americans must publish in the *Federal Register* as a notice of proposed rulemaking all changes in general statements of policy, application requirements or priorities or any other grantee or program requirements. All published rules must contain citations of legal authority authorizing the particular action. When it becomes necessary or appropriate to issue a rule following the enactment of a law, the new rule must be published in final form within six months and a copy of each published rule must be transmitted to the House of Representatives and to the Senate.

V. COMMITTEE APPROVAL

In compliance with clause 2(1)(2)(B) of rule XI of the Rules of the House of Representatives, the Committee states that on May 12, 1987, a quorum being present, the Committee favorably ordered reported H.R. 1451 by voice vote.

VI. OVERSIGHT STATEMENT

In compliance with clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives, this report embodies the findings and recommendations of the Subcommittee on Human Resources, established pursuant to clause 2(b)(1) of rule X of the House of Representatives and rule 18(a) of the Rules of the Committee on Education and Labor. Pursuant to its responsibilities, the Committee has determined that legislation should be enacted as set forth in H.R. 1451.

VII. INFLATIONARY IMPACT STATEMENT

In compliance with clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that the enactment into law of H.R. 1451 will have little inflationary impact on prices and costs in the operation of the national economy. It is the judgment of the committee that the inflationary impact of this legislation as a component of the Federal budget is negligible.

VIII. OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE ON GOVERNMENT OPERATIONS

In compliance with clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee states that no findings or

recommendations of the Committee on Government Operations were submitted to the Committee.

IX. COST OF THIS LEGISLATION

A. CONGRESSIONAL BUDGET OFFICE ESTIMATE

In compliance with clause 2(1)(3) (B) and (C) of Rule XI of the Rules of the House of Representatives, the estimate prepared by the Congressional Budget Office pursuant to section 403 of the Congressional Budget Act of 1974, submitted prior to the filing of this report, is set forth as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 18, 1987.

HON. AUGUSTUS F. HAWKINS,
Chairman, Committee on Education and Labor, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for H.R. 1451, the Older Americans Act Amendments of 1987, as ordered reported from the House Education and Labor Committee on May 12, 1987.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,
Sincerely,

JAMES BLUM
(For Edward M. Gramlich, Acting Director).

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: H.R. 1451.
2. Bill title: The Older Americans Act Amendments of 1987.
3. Bill status: As ordered reported by the House Committee on Education and Labor on May 12, 1987.
4. Bill purpose: The purpose of this bill is to amend and extend through 1991 the authorization for appropriations for programs under the Older Americans Act of 1965 and the Native Americans Programs Act of 1974. This bill would also create several new programs. This bill is subject to subsequent appropriations action.
5. Estimated cost to the Federal Government:

(By fiscal year, in millions of dollars)

	1988	1989	1990	1991	1992
Amounts Subject to appropriations action					
Estimated Authorization Levels					
Administration on Aging Data Collection	(¹)	(¹)	(¹)	(¹)	(¹)
Federal Council on Aging	(¹)	(¹)	(¹)	(¹)	(¹)
Supportive Services and Centers	380	399	418	439	
Congregate Nutrition Services	415	435	457	480	
Home-Delivered Nutrition Services	79	83	88	92	
Surplus commodities	151	166	183	201	
Special needs	25	25	26	28	
In-Home Services	25	26	28	29	

[By fiscal year, in millions of dollars]

	1988	1989	1990	1991	1992
Training, research and discretionary	33	35	36	38	
Community service employment	387	406	426	448	
Grants for Indian Tribes	12	15	18	21	24
Personal health education and training	9	10	10	11	
1991 White House Conference		9			
Native American Programs	31	32	34	35	
Ombudsman Program	20	21	22	23	
Studies	1				
Outreach		25			
Subtotal: Estimated authorization level	1,568	1,687	1,746	1,845	24
Estimated outlays	924	1,592	1,719	1,809	758
Direct spending					
Meals for adult day care centers:					
Subtotal: Estimated budget authority	5	6	7	8	10
Estimated Outlays	5	6	7	8	10
Bill totals:					
Estimated authorization level/budget authority	1,573	1,693	1,753	1,853	34
Estimated outlays	929	1,598	1,726	1,817	768

* Less than \$500,000

The costs of this bill fall within functions 500, 550, 570, and 600.

BASIS OF ESTIMATE

This cost estimate of H.R. 1451 reflects the new and extended authorizations for programs under the Older Americans Act of 1965 and the Native Americans Programs Act of 1974.

Most of the programs in this bill are authorized at stated levels for 1988 through 1991. Authorization levels are stated for 1988 for the ombudsman program, and for 1988 and 1989 for assistance for special needs. In both programs, the outyears are authorized at such sums as may be necessary. Estimated levels for these such sums authorizations are the stated levels adjusted for inflation.

The Federal Council on Aging and activities under the Native Americans Programs Act of 1974 are authorized at such sums as may be necessary for 1988 through 1991. The estimates reflect the 1987 funding level adjusted for inflation.

The estimate for the currently unfunded program for personal health education and training, authorized at such sums for 1988 through 1991, is based on the most recent stated authorized level adjusted for inflation.

The 1991 White House Conference on Aging is authorized at such sums for 1989, 1990, and 1991. We have assumed full funding in 1989, based on the cost of the 1981 conference adjusted for inflation.

This bill requires the Commissioner on Aging to conduct several studies, as well as an assessment of unsatisfied demand for services. We estimate their combined cost to be about \$1 million. The bill also requires the Commissioner to collect and report on data regarding Older Americans Act activities. We estimate the cost of this requirement to be less than \$500,000 annually.

H.R. 1451 authorizes \$25 million in 1989 to allow state agencies to conduct intensive outreach activities to inform older individual

of the availability of benefits under the Supplemental Security Income (SSI), Medicaid, Medicare and Food Stamp programs. Full funding of this authorization would likely increase the number of benefit recipients in these programs.

Based on response to a 1983-84 outreach to potential SSI recipients, we estimate that such efforts would increase initial participation in SSI and food stamps by 15,000 people each, and in Medicaid by 20,000 people. People could receive benefits from one, two or all three programs. Average annual benefits in 1989 are estimated as \$2,35 in SSI, \$1,750 in Medicaid, and \$435 in food stamps. Costs would be lower in the first year to reflect program application over the course of the year. No significant costs are estimated for Medicare because 98 percent of the eligible population is already covered.

The following table summarizes these indirect effects of fully funding the outreach authorization in 1989:

[By fiscal year, in millions of dollars]

	1988	1989	1990	1991	1992
Food stamps.....		2	5	5	5
Supplemental security income.....		15	30	30	30
Medicaid.....		10	25	20	20
Medicare.....		(¹)	(¹)	(¹)	(¹)
Total estimated budget authority.....		27	60	55	55
Total estimated outlays.....		27	60	55	55

¹ Less than \$500,000.

This bill would amend the National School Lunch Act to allow adult day care centers to participate in the Child Care Food Program. Based on a national survey prepared for the National Council on Aging, we estimate an average daily attendance of 27,000 adults in adult day care centers. We assumed a 50 percent participation rate, and an average reimbursement rate (which would vary by meal and income) equivalent to the average reimbursement for children in the Child Care Food Program. Costs are estimated to increase from \$5 million in 1988 to \$10 million in 1992 due to growth in the number of adult day care centers, as well as inflation in food prices.

Total outlays are estimated assuming full funding of estimated authorization levels. Estimated outlays for existing programs reflect the current spending pattern. Estimated outlays for new programs reflect the spending pattern of similar existing programs.

6. Estimated cost to State and local government: Several programs amended by this bill, including services and centers, congregate and home-delivered nutrition, community service employment, personal health education and training, and the child care food program, require agencies receiving federal funds to pay for a portion of costs from non-federal sources. States also pay a portion of Medicaid and Supplemental Security Income benefits.

We estimate the total non-federal contribution required if this bill were fully funded to be about \$200 million in 1988, increasing to about \$250 million in 1991.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Ken Pott, Janice Peskin, Julie Isaacs, and Holly Harvey.

10. Estimate approved by: C.G. Nuckols (for James L. Blum, Assistant Director for Budget Analysis).

B. Committee Estimate

With reference to the statement required by clause 7(a)(1) of Rule XIII of the Rules of the House of Representatives, the Committee accepts the estimate prepared by the Congressional Budget Office.

SECTION-BY-SECTION ANALYSIS

Section 1 provides that the short title of this Act may be cited as the "Older Americans Act Amendments of 1987".

Section 2 makes minor changes in paragraphs (3) and (7) of the Declaration of Objectives and adds protection against abuse, neglect and exploitation to paragraph (10).

Section 3 establishes a direct reporting relationship between the Commissioner on Aging and the Secretary of Health and Human Services.

Section 4 establishes a new provision requiring the Commissioner to annually collect data on service characteristics, the number of senior centers supported, and on the extent of area agency compliance with certain requirements.

Section 5 a new provision adding the Veterans' Administration to the list of federal agencies with which the Commissioner may consult and to include a representative of veteran's health care where appropriate on area agency on aging boards.

Section 6 contains the authorization of appropriations for the Federal Council on Aging.

Section 7 revises a date in Section 205(c) regarding regulations.

Section 8 adds a new provision requiring the Commissioner to annually publish for public comment specific goals to be achieved by implementing the Act.

Section 9 directs the Commissioner to conduct a study assessing the unsatisfied demand for supportive services provided at senior centers.

Section 10 requires the Secretary to conduct a study on the impact of the prospective payment system on community based services.

Section 11 requires the Secretary to conduct a study on the feasibility of using state agencies on aging and area agencies on aging for caregiver referral services.

Section 12 amends the statement of purpose for Title III to include a reference to Indian tribes and tribal organizations.

Section 13 contains the authorization of appropriations for Title III services.

Section 14 increases the percentage of Title III funding that may be used by area agencies on aging for administrative expenses from 8.5 percent to 10 percent.

Section 15 amends Title III to require periodic public hearings as part of the already required evaluations of activities carried out under the area plans.

Section 16 expands the area plan requirements to include the coordination of certain programs with local services for older victims of Alzheimer's disease.

Section 17 directs area agencies to conduct a survey of post-secondary schools in their area and to summarize and disseminate materials detailing what tuition-free or low cost educational opportunities are available to older individuals.

Section 18 strengthens the long-term care ombudsman program and authorizes appropriations for the purpose.

Section 19 provides new reporting and hearing requirements when a waiver is granted by the State under 306(b)(1).

Section 20 requires that area and State plans document the minority population within service areas and document how their service needs have been met.

Section 21 amends several sections to provide further direction in targeting services to those in greatest economic or social need, with particular attention to low income minority elderly.

Section 22 authorizes a one time appropriation for fiscal year 1989 for outreach activities to inform older individuals of eligibility requirements for Supplemental Security Income, Medicaid, and Food Stamps.

Section 23 modifies the State plan requirement to include periodic public hearings, to facilitate the coordination of community-based services for those at risk of institutionalization, and to prohibit restrictions on public comment.

Section 24 expands the area plan requirements to include the coordination of certain services with the existing mental health community.

Section 25 adds language regarding confidentiality of information related to the provision of legal assistance.

Section 26 amends Title III to modify the method of assessing state financial effort.

Section 27 amends Title III to authorize appropriations and a new program for non-medical In-Home Services for Frail Older Individuals.

Section 28 establishes a new subsection in Title III authorizing grants to states to meet the special needs of older individuals.

Section 29 requires the Commissioner to make grants for special projects in comprehensive long-term care.

Section 30 amends Title IV-B to authorize a new Volunteer Service Credit demonstration project.

Section 31 authorizes a study of transportation services for fiscal year 1988 to determine the extent to which Older Americans Act funds are used for transportation services.

Section 32 contains the authorization of appropriations for Title IV Training, Research, and Discretionary Projects and Programs.

Section 33 freezes the cap on Title V administrative costs for employment projects at 13.5 percent and establishes specific criteria for waivers.

Section 34 clarifies that educational services include literacy tutoring.

Section 35 contains the authorization of appropriations for the Title V program.

Section 36 excludes Title V wages from consideration for purposes of determining eligibility, or computing monthly rents for federally subsidized senior citizen housing.

Section 37 amends Title VI to authorize appropriations and clarify the eligibility of older Indians for Title III services.

Section 38 contains the authorization of appropriations for the Title VII program.

Section 39 contains technical amendments.

Section 40 authorizes the President to call a White House Conference on Aging in 1991 and contains provisions related to the purpose of the Conference and its administration, selection of participants, duties of the Secretary, Conference committee, and final report. This section also authorizes appropriations for the Conference.

Section 41 amends the Native American Programs Act to authorize appropriations for fiscal years 1989, 1990, and 1991, to add new requirements regarding the review of applications for assistance, and to make additional requirements regarding rulemaking.

Section 42 includes adult day care centers as eligible institutions for the Child Care Food Program.

Section 43 provides for the effective date of the amendments.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

OLDER AMERICANS ACT OF 1965

* * * * *

TITLE I—DECLARATION OF OBJECTIVES; DEFINITIONS

DECLARATION OF OBJECTIVES FOR OLDER AMERICANS

SEC. 101. The Congress hereby finds and declares that, in keeping with the traditional American concept of the inherent dignity of the individual in our democratic society, the older people of our Nation are entitled to, and it is the joint and several duty and responsibility of the governments of the United States [and], of the several States and their political subdivisions, *and of Indian tribes* to assist our older people to secure equal opportunity to the full and free enjoyment of the following objectives:

(1) * * *

* * * * *

(3) [Suitable] *Obtaining and maintaining suitable housing, independently selected, designed and located with reference to special needs and available at costs which older citizens can afford.*

* * * * *

(7) **Pursuit of** *Participating in and contributing to meaningful activity within the widest range of civic, cultural, educational and training and recreational opportunities.*

(10) Freedom, independence, and the free exercise of individual initiative in planning and managing their own lives **and**, full participation in the planning and operation of community-based services and programs provided for their benefit, *and protection against abuse, neglect, and exploitation.*

DEFINITIONS

SEC. 102. For the purposes of this Act—

(1) The term "Secretary" means the Secretary of Health and Human Services, **other than for purposes of title V.** *except that for purposes of title V such term means the Secretary of Labor.*

(3) The term "State" **includes** *means any of the several States, the District of Columbia, the Virgin Islands, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.*

(8) The term "Trust Territory of the Pacific Islands" includes *the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.*

TITLE II—ADMINISTRATION ON AGING

ESTABLISHMENT OF ADMINISTRATION ON AGING

SEC. 201. (a) There is established in the Office of the Secretary an Administration on Aging (hereinafter in this Act referred to as the "Administration") which shall be headed by a Commissioner on Aging (hereinafter in this Act referred to as the "Commissioner"). Except for title V, the Administration shall be the agency for carrying out this Act. There shall be a direct reporting relationship between the Commissioner and **the Office of** the Secretary. In the performance of **this functions,** *the functions of the Secretary,* the Commissioner shall be directly responsible to **the Office of** the Secretary. The Secretary shall not approve or require any delegation of the functions of the Commissioner to any other officer not directly responsible to the Commissioner.

FUNCTIONS OF COMMISSIONER

SEC. 202. (a) It shall be the duty and function of the Administration—

(1) . . .

(8) gather statistics *(including statistics regarding the results of outreach activities and application assistance provided under section 306(a)(6)(N))* in the field of aging which other Federal agencies are not collecting, and take whatever action is necessary to achieve coordination of activities carried out or assisted by all departments, agencies, and instrumentalities of the Federal Government with respect to the collection, preparation, and dissemination of information relevant to older individuals;

* * * * *

(17) develop, in coordination with other agencies, a national plan for meeting the needs for trained personnel in the field for aging, and for training persons for carrying out programs related to the purposes of this Act, and conduct and provide for the conducting of such training; **[and]**

(18) consult with national organizations representing minority individuals to develop and disseminate training packages and to provide technical assistance efforts designed to assist State and area agencies in providing services to older individuals with the greatest economic or social needs **[.]**;

(19) collect for each fiscal year, directly or by contract, statistical data regarding programs and activities carried out with funds provided under this Act, including—

(A) with respect to each type of service provided with such funds—

(i) the aggregate amount of such funds expended to provide such service;

(ii) the number of individuals who received such service; and

(iii) the number of units of such service provided;

(B) the number of senior centers which received such funds; and

(C) the extent to which each area agency on aging designated under section 305(a) satisfied the requirements of paragraphs (2) and (5)(A) of section 306(a); and

* * * * *

(20) obtain from—

(A) the Department of Agriculture information explaining the requirements for eligibility to receive benefits under the Food Stamp Act of 1977; and

(B) the Social Security Administration information explaining the requirements for eligibility to receive supplemental security income benefits under title XVI of the Social Security Act (or assistance under a State plan program under title XVI of that Act);

and distribute such information, in written form, to State agencies, for redistribution to area agencies on aging, to carry out outreach activities and application assistance under section 307(a)(24).

FEDERAL AGENCY CONSULTATION

SEC. 203. (a) * * *

(b) For the purposes of subsection (a), programs related to the purposes of this Act shall include—

(1) * * *

* * * *

(13) the Community Services Block Grant Act, [and]

(14) demographic statistics and analysis programs conducted by the Bureau of the Census under title 13, United States Code[.]; and

(15) parts II and III of title 38, United States Code.

FEDERAL COUNCIL ON THE AGING

SEC. 204. (a) * * *

* * * *

(d) The Council shall—

(1) * * *

* * * *

(3) serve as a spokesman on behalf of older Americans by making recommendations to the President, to the Secretary, to the Commissioner, and to the Congress with respect to Federal policies regarding the aging and federally conducted or assisted programs and other activities relating to or affecting them;

* * * *

(g) There are authorized to be appropriated to carry out the provisions of this section [\$228,900 for fiscal year 1984 and] \$200,000 for each of the fiscal years 1985, 1986, and 1987, and such sums as may be necessary for each of the fiscal years 1988, 1989, 1990, and 1991.

ADMINISTRATION OF THE ACT

SEC. 205. (a) * * *

* * * *

(c) Not later than 120 days after the date of the enactment of the Older Americans Act Amendments of [1984,] 1987, the Secretary shall issue and publish in the Federal Register proposed regulations for the administration of this Act. After allowing a reasonable period for public comment on such proposed rules and not later than 90 days after such publication, the Secretary shall issue, in final form, regulations for the administration of this Act.

(d) Not later than September 1 of each fiscal year, the Commissioner shall publish in the Federal Register, for the purpose of facilitating informed public comment, proposed specific goals to be achieved by implementing this Act in the first fiscal year beginning after the date of such publication.

[(d)] (e) For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary.

* * * *

REPORTS

SEC. 207. (a) Not later than one hundred and twenty days after the close of each fiscal year, the Commissioner shall prepare and submit to the President and to the Congress a full and complete report on the activities carried out under this Act. [Such annual reports shall include statistical data reflecting services and activities provided individuals during the preceding fiscal year.]

Such annual reports include—

- (1) statistical data reflecting services and activities provided to individuals during the preceding fiscal year;
- (2) statistical data collected under section 202(a)(19);
- (3) statistical data and an analysis of the information received under section 307(a)(15)(E) by the Commissioner; and
- (4) statistical data and an analysis of information regarding the effectiveness of the State agency and area agencies on aging in targeting services to older individuals with the greatest economic or social needs, with particular attention to low-income minority individuals.

* * * * *

ASSESSMENT OF UNSATISFIED DEMAND FOR SUPPORTIVE SERVICES
PROVIDED AT SENIOR CENTERS AND OTHER SITES

SEC. 214. Not later than September 30, 1989, the Commissioner shall—

(1)(A) with respect to each senior center established under title II or other site, determine the extent to which there is unsatisfied demand for supportive services such as those provided under title III at such center or such site, and the reasons such demand is not satisfied, and

(B) determine—

- (i) the number and geographical distribution of such centers and other sites at which supportive services are provided, and
 - (ii) the number and geographical distribution of such centers and other sites which would be needed to meet the unsatisfied demand for such centers and supportive services, and
- (2) submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report—
- (A) summarizing the determinations made under paragraph (1), and
 - (B) containing the recommendations of the Secretary with respect to the need for legislation relating to satisfying the demand for supportive services provided at senior centers established under such title and at other sites.

STUDY OF PROSPECTIVE PAYMENT SYSTEM

SEC. 215. (a)(1) The Secretary, through the Commissioner and in cooperation with the Administrator of the Health Care Financing Administration, shall conduct a study to determine the effect of the implementation of the prospective payment system on the adequacy and availability of community-based services that will assist medi-

care patients who are discharged from hospitals. Such study shall include—

(A) an evaluation of the needs of recently discharged medicare patients for a range of community-based services, including an evaluation of their health and functional status, availability of services, and ability to finance services;

(B) specifications of the kinds of services not covered by any existing Federal program but which could respond to the needs of recently discharged medicare patients;

(C) determination of the savings that have accrued to medicare as a result of the prospective payment system and an analysis of how such savings can be utilized to support a range of community-based services for recently discharged patients;

(D) an analysis of how such system affects the demand for and cost of services available under this Act; and

(E) a determination of whether such system has affected the types of services and the proportion of those services that are provided under this Act.

(2) For purposes of such study, the Secretary, the Commissioner, and the Administrator of the Health Care Financing Administration, shall use—

(A) the best available data on needs of recently discharged patients; and

(B) any existing data on the effects of such system on patients.

(b) The Secretary shall submit a report to the Speaker of the House of Representatives and the President pro tempore of the Senate, describing the results of the study conducted under subsection (a) and shall include in such report recommendations regarding how existing authorities under titles XVIII, XIX, and XX of the Social Security Act and under this Act should be amended to ensure adequate care for recently discharged medicare patients.

STUDY OF CAREGIVER REFERRAL SERVICE

SEC. 216. (a) The Commissioner shall conduct a study—

(1) to determine the efficacy of using State agencies designated under section 305(a)(1) and area agencies or aging designated under section 305(a)(2)(A) to develop a nationwide system for providing to caregivers of older individuals (as defined in section 302(10)) both information regarding the availability of services specified in section 306(a)(2) and referral service; and

(2) to determine the efficacy of requiring each area agency on aging to list its telephone number under the name "Area Agency on Aging"—

(A) in the unclassified section; and

(B) to the extent possible, in the classified section, under a subject heading designated by the Commissioner by rule; of each telephone directory published by the provider of local telephone service for residents in any geographical area that lies in whole or in part in the planning and service area served by such area agency on aging.

(b) Not later than 2 years after the effective date of this section, the Commissioner shall submit to the Congress a report describing the results of the study conducted under subsection (a).

(c) *For purposes of this section—*

(1) *the term "caregiver" means a geographically remote family member who is concerned about the well-being of an older individual; and*

(2) *the term "referral service" means with respect to the older individual for whose benefit such service is requested, information identifying the location and telephone number of the area agency on aging for the planning and service area in which such older individual resides.*

TITLE III—GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING

PART A—GENERAL PROVISIONS

PURPOSES; ADMINISTRATION

SEC. 301. (a) It is the purpose of this title to encourage and assist State and area agencies to concentrate resources in order to develop greater capacity and foster the development and implementation of comprehensive and coordinated service systems to serve older individuals by entering into new cooperative arrangements in each State with State and area agencies, *with Indian tribes and tribal organizations*, and with the providers, including voluntary organizations, of supportive services, including nutrition services and multipurpose senior centers, for the planning, and for the provision of, supportive services, nutrition services, and multipurpose senior centers, in order to—

(1) *secure and maintain maximum independence and dignity in a home environment for older individuals capable of self care with appropriate supportive services;*

* * * * *

(b)(1) * * *

(2) In carrying out the provisions of this title, the Commissioner may request the technical assistance and cooperation of the Department of Education, the Department of Labor, the Department of Housing and Urban Development, the Department of Transportation, the Office of Community Services, Veterans' Administration, and such other agencies and departments of the Federal Government as may be appropriate.

(c) *The Commissioner shall provide technical assistance and training (by contract, grant, or otherwise) to State long-term care ombudsman programs established under section 307(a)(12), and to individuals designated under such section to be representatives of a long-term care ombudsman, in order to enable such ombudsmen and such representatives to carry out the ombudsman program effectively.*

(d)(1) *Not later than January 15 of each year, the Commissioner shall compile a report—*

(A) *summarizing and analyzing the data collected under section 307(a)(12)(C) for the then most recently concluded fiscal year;*

(B) identifying significant problems and issues revealed by such data (with special emphasis on problems relating to quality of care and residents' rights);

(C) discussing current issues concerning the State's long-term care ombudsman program; and

(D) making recommendations regarding legislation and administrative actions to resolve such problems.

(2) The Commissioner shall submit the report required by paragraph (1) to—

(A) the Select Committee on Aging of the House of Representatives;

(B) the Special Committee on Aging of the Senate;

(C) the Committee on Education and Labor of the House of Representatives; and

(D) the Committee on Labor and Human Resources of the Senate.

(3) The Commissioner shall provide the report required by paragraph (1), and make the State reports required by section 307(a)(12)(i) available, to—

(A) the Administrator of the Health Care Finance Administration;

(B) the Office of the Inspector General of the Department of Health and Human Services;

(C) the Office of Civil Rights of the Department of Health and Human Services;

(D) the Administrator of the Veterans' Administration; and

(E) the public agencies and private organizations designated under section 307(a)(12)(A).

(e)(1) The Commissioner shall conduct a study concerning involvement in the ombudsman program established under section 307(a)(12) and its impact upon issues and problems affecting—

(A) residents of board and care facilities and other similar adult care homes who are older individuals (as defined in section 302(10)), including recommendations for expanding and improving services in such facilities; and

(B) the effectiveness of recruiting, supervising and retaining volunteer ombudsmen.

(2) The Commissioner shall prepare and submit a report to the Congress on the findings and recommendations of the study described in paragraph (1) not later than December 31, 1988.

DEFINITIONS

SEC. 302. For the purpose of this title—

(1) * * *

*(* * *)
 [(6) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.]

[(7)] (6) The term "State agency" means the State agency designated by a State under section 305(a)(1).

[(8)] (7) The term "unit of general purpose local government" means—

(A) a political subdivision of the State whose authority is general and not limited to only one function or combination of related functions; or

(B) an Indian tribal organization.

[(9)] (8) The term "education and training service" means a supportive service designed to assist older individuals to better cope with their economic, health, and personal needs through services such as consumer education, continuing education, health education, preretirement education, financial planning, and other education and training services which will advance the objectives of this Act.

[(10)] (9) The term "older individual" means any individual who is 60 years of age or older.

[(11)] (10) The term "multipurpose senior center" means a community facility for the organization and provision of a broad spectrum of services, which shall include, but not be limited to, provision of health, social, nutritional, and educational services and the provision of facilities for recreational activities for older individuals.

[(12)] (11) The term "focal point" means a facility established to encourage the maximum collocation and coordination of services for older individuals.

(12) The term "greatest economic need" means the need resulting from an income level at or below the poverty threshold established by the Bureau of the Census.

(13) The term "greatest social need" means the need caused by noneconomic factors which include physical and mental disabilities, language barriers, and cultural or social isolation including that caused by racial or ethnic status which restricts an individual's ability to perform normal daily tasks or which threatens such individual's capacity to live independently.

AUTHORIZATION OF APPROPRIATIONS; USES OF FUNDS

SEC. 303. (a)(1) There are authorized to be appropriated [\$350,300,000 for fiscal year 1984, \$325,700,000 for fiscal year 1985, \$343,600,000 for fiscal year 1986, and] \$361,500,000 for fiscal year 1987, \$379,575,000 for fiscal year 1988, \$398,554,000 for fiscal year 1989, \$418,481,000 for fiscal year 1990, and \$439,406,000 for fiscal year 1991, for the purpose of making grants under part B of this title (relating to supportive services and senior centers) for purposes other than outreach activities and application assistance under section 307(a)(22).

(2) To carry out section 306(a)(6)(N), there is authorized to be appropriated \$25,000,000 for fiscal year 1989 only if the amount appropriated for fiscal year 1989 to carry out this title (other than sections 306(a)(6)(N), 307(a)(12), and 311, and part E), title IV (other than section 427 and 428), title V (other than section 509), and title VI exceeds 105 percent of the amount appropriated respectively to carry out each such title in fiscal year 1988. Amounts appropriated under this subsection shall remain available until expended.

(b)(1) There are authorized to be appropriated **[\$365,300,000** for fiscal year 1984, \$360,800,000 for fiscal year 1985, \$376,500,000 for fiscal year 1986, and **[\$395,000,000** for fiscal year 1987, \$414,750,000 for fiscal year 1988, \$435,488,000 for fiscal year 1989, \$457,262,000 for fiscal year 1990, and \$480,125,000 for fiscal year 1991, for the purpose of making grants under subpart 1 of Part C of this title (relating to congregate nutrition services).

(2) There are authorized to be appropriated **[\$68,700,000** for fiscal year 1984, \$69,100,000 for fiscal year 1985, \$72,000,000 for fiscal year 1986, and **]** \$75,600,000 for fiscal year 1987, \$79,380,000 for fiscal year 1988, \$83,349,000 for fiscal year 1989, \$87,516,000 for fiscal year 1990, and \$91,892,000 for fiscal year 1991, for the purpose of making grants under subpart 2 of part C of this title (relating to home delivered nutrition services).

* * * * *

(d) To carry out section 307(a)(12), there are authorized to be appropriated \$20,000,000 for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989, 1990, and 1991 only if the amount appropriated for the respective fiscal year to carry out this title (other than sections 306(a)(6)(N), 307(a)(12), and 311, and part E), title IV (other than sections 427 and 428), title V (other than section 509), and title VI exceeds 105 percent of the amount appropriated respectively for the preceding fiscal year to carry out each such title.

(e) There are authorized to be appropriated \$25,000,000 for fiscal year 1988, \$26,250,000 for fiscal year 1989, \$27,563,000 for fiscal year 1990, and \$28,941,000 for fiscal year 1991 for the purpose of making grants under part D of this title (relating to in-home services).

(f) To carry out part E (relating to special needs), there are authorized to be appropriated \$25,000,000 for fiscal year 1988, \$25,000,000 for fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990 and 1991 only if the amount appropriated for the respective fiscal year to carry out this title (other than sections 306(a)(6)(N), 307(a)(12), 311, and part E), title IV (other than sections 427 and 428), title V (other than section 509), and title VI exceeds 105 percent of the amount appropriated respectively for the preceding fiscal year to carry out each such title.

ALLOTMENT, FEDERAL SHARE

SEC. 304. (a) * * *

* * * * *

(d)(1) From any State's allotment, after the application of section 308(b), under this section for any fiscal year—

(A) such amount as the State agency determines, but not more than **[8.5]** 10 percent thereof, shall be available for paying such percentage as the agency determines, but not more than 75 percent, of the cost of administration of area plans;

(B) such amount (excluding any amount attributable to funds appropriated under section 303(a)(2)) as the State agency determines to be adequate for conducting an effective ombudsman

program under section 307(a)(12) shall be available for conducting such program;

(C) after September 30, 1986, such amount *(excluding any amount attributable to funds appropriated under section 303(a)(2))* as the State agency determines to be adequate, but not more than 1 percent, for conducting effective demonstration projects in health and nutrition education under section 307(f) shall be available for conducting such projects; and

ORGANIZATION

SEC. 305. (a) In order for a State to be eligible to participate in programs of grants to States from allotments under this title—

(1) the State shall, in accordance with regulations of the Commissioner, designate a State agency as the sole State agency to—

(A) . . .

.
(D) serve as an effective and visible advocate [for the elderly by reviewing and commenting upon all State plans, budgets, and policies which affect the elderly and] *representing the interests of older individuals by reviewing, monitoring, evaluating, and commenting on Federal, State, and local plans, budgets, regulations, programs, laws, levies, hearings, policies, and actions which affect or may affect older individuals and by recommending any changes in such local plans, budgets, regulations, programs, laws, levies, hearings, policies, and actions as the State agency considers to be appropriate (and no directive shall be considered to supersede the advocacy role of the State agency set forth in this Act), and providing technical assistance to any agency, organization, association, or individual representing the needs of the elderly; and*

(E) divide the State into distinct planning and service areas (or in the case of a State specified in subsection (b)(5)(A), designate the entire State as a single planning and service area), in accordance with guidelines issued by the Commissioner, after considering the geographical distribution of individuals aged 60 and older in the State, the incidence of the need for supportive services, nutrition services, multipurpose senior centers, and legal [services,] *assistance, the distribution of older individuals [who have low incomes] residing in such areas, the distribution of older individuals who have greatest economic need (with particular attention to low-income minority individuals) residing in such areas, the distribution of older individuals who have greatest social need (with particular attention to low-income minority individuals) residing in such areas, the distribution of resources available to provide such services or centers, the boundaries of existing areas within the State which were drawn for the planning or administration of supportive services programs, the location of units of general purpose local government within the State, and any other relevant factors; and*

(2) the State agency designated under clause (1) shall—

(A) * * *

(C) develop a formula, in accordance with guidelines issued by the Commissioner, for the distribution within the State of funds received under this title, taking into account, to the maximum extent feasible, the best available statistics on the geographical distribution of individuals aged 60 and older in the State, and publish such formula for review and comment *in accordance with subsection (d)*;

(D) submit its formula developed under subclause (C) to the Commissioner for review and comment; **[and]**

(E) provide assurance that preference will be given to providing services to older individuals with the greatest economic or social needs, with particular attention to low-income minority individuals, and include proposed methods of carrying out the preference in the State plan **[]**; and

(F) assure the use of outreach efforts that will identify individuals eligible for assistance under this Act, with special emphasis on older individuals with the greatest economic or social needs (with particular attention to low-income minority individuals) and inform such individuals of the availability of such assistance.

(d) **[(1)]** The publication for review and comment required by clause (2)(C) of subsection (a) shall include—

(A) a descriptive statement of the formula's assumptions and goals, and the application of the definitions of greatest economic or social need,

(B) a numerical statement of the actual funding formula to be used,

(C) a listing of the population, economic, and social data to be used for each planning and service area in the State, and

(D) a demonstration of the allocation of funds, pursuant to the funding formula, to each planning and service area in the State.

[(2)] For purposes of clause (2)(E) of subsection (a) and paragraph (1) of this subsection, the term "greatest economic need" means the need resulting from an income level at or below the poverty threshold established by the Bureau of the Census, and the term "greatest social need" means the need caused by noneconomic factors which include physical and mental disabilities, language barriers, and cultural or social isolation including that caused by racial or ethnic status which restricts an individual's ability to perform normal daily tasks or which threatens his or her capacity to live independently. **]**

AREA PLANS

SEC. 306. (a) Each area agency on aging designated under section 305(a)(2)(A) shall, in order to be approved by the State agency, prepare and develop an area plan for a planning and service area for

a two-, three-, or four-year period determined by the State agency, with such annual adjustments as may be necessary. Each such plan shall be based upon a uniform format for area plans within the State prepared in accordance with section 307(a)(1). Each such plan shall—

(1) provide, through a comprehensive and coordinated system, for supportive service, nutrition service, and, where appropriate, for the establishment, maintenance, or construction of multipurpose senior centers, within the planning and service area covered by the plan, including determining the extent of need for supportive services, nutrition services, and multipurpose senior centers in such area (taking into consideration, among other things, the number of older individuals with low incomes residing in such area, *the number of older individuals who have greatest economic need (with particular attention to low-income minority individuals) residing in such area, the number of older individuals who have greatest social need (with particular attention to low-income minority individuals) residing in such area*, and the efforts of voluntary organizations in the community, evaluating the effectiveness of the use of resources in meeting such need, and entering into agreements with providers of supportive services, nutrition services, or multipurpose senior centers in such area, for the provision of such services or centers to meet such need;

(2) provide assurances that an adequate proportion (*as described in subsection (d)*) of the amount allocated for part B to the planning and service area will be expended for the delivery of each of the following categories of services—

(A) services associated with access to services (transportation, outreach, and information and referral);

* * * * *

(5)(A) (i) provide assurances that preference will be given to providing services to older individuals with the greatest economic or social needs, with particular attention to low-income minority individuals, and include proposed methods of carrying out the preference in the area plan; **[and]**

(ii) provide assurances that the area agency will include in each agreement made with a provider of any service under this title, a requirement that such provider will specify how the provider intends to satisfy the service needs of low-income minority individuals in the area served by the provider; and

(iii) with respect to the fiscal year preceding the fiscal year for which such plan is prepared—

(I) identify the number of low-income minority older individuals in the planning and service area; and

(II) describe the methods used to satisfy the service needs of such minority older individuals; and

(B) assure the use of outreach efforts that will identify individuals eligible for assistance under this Act, with special emphasis on rural elderly older individuals who have greatest economic need (*with particular attention to low-income minority individuals*), and older individuals who have greatest social need (*with particular attention to low-income minority individ-*

uals), and inform such individuals of the availability of such assistance; and

(6) provide assurances that any amount received under part D will be expended in accordance with such part;

(7) provide assurances that any amount received under part E will be expended in accordance with such part; and

[(6)] (8) provide that the area agency on aging will—

(A) conduct periodic evaluations of, and public hearings on, activities carried out under the area plan and an annual evaluation of the effectiveness of outreach conducted under paragraph (5)(B).

(D) serve as the advocate and focal point for [the elderly within the community by monitoring, evaluating, and commenting upon all policies, programs, hearings, levies, and community actions which will affect the elderly] representing the interests of older individuals within the community by reviewing, monitoring, evaluating, and commenting on Federal, State, and local plans, budgets, regulations, programs, laws, levies, hearings, policies, and actions which affect or may affect older individuals and by recommending any changes in such local plans, budgets, regulations, programs, laws, levies, hearings, policies, and actions as the area agency on aging considers to be appropriate (and no directive shall be considered to supersede the advocacy role of the area agency set forth in this Act).

(F) establish an advisory council consisting of older individuals (including minority individuals) who are participants or who are eligible to participate in programs assisted under this Act, representatives of older individuals, local elected officials, providers of veterans health care (if appropriate), and the general public, to advise continuously the area agency on all matters relating to the development of the area plan, the administration of the plan and operations conducted under the plan;

(G) develop and publish methods by which priority of services is determined, particularly with respect to the delivery of services under clause (2); [and]

(J) identify the public and private nonprofit entities involved in the prevention, identification, and treatment of the abuse, neglect, and exploitation of older individuals, and based on such identification, determine the extent to which the need for appropriate services for such individuals is unmet; [and]

(K) facilitate the involvement of long-term care providers in the coordination of community-based long-term care services and work to ensure community awareness of an involvement in addressing the needs of residents of long-term care facilities[.];

(L) coordinate the categories of services specified in paragraph (2) for which the area agency on aging is required to expend funds under part B, with activities of community-based organizations established for the benefit of victims of Alzheimer's disease and the families of such victims;

(M) conduct a survey of the post-secondary educational institutions in the planning and service area and, based on the results of such survey, summarize and disseminate to older individuals information regarding—

(i) the courses of study offered to older individuals by such institutions;

(ii) the policies of such institutions with respect to the enrollment of older individuals with little or no payment of tuition, and on a space available or other special basis; and

(iii) the identities of the representatives (if any) designated by such institutions to counsel and assist older individuals who express an interest in enrolling in such institutions;

(N) with funds and information received under section 307(a)(24) from the State agency—

(i) conduct outreach activities to inform older individuals, with special emphasis on older individuals residing in rural areas, of the requirements for eligibility to receive supplemental security income benefits under title XVI of the Social Security Act (or assistance under a State plan program under title XVI of that Act), medical assistance under title XIX of the Social Security Act, and benefits under the Food Stamp Act of 1977; and

(ii) assist older individuals to apply for such assistance and such benefits; and

(O) coordinate any mental health services provided with funds expended by the area agency on aging for part B with the mental health services provided by community health centers and by other public agencies and nonprofit private organizations.

[For purposes of clause (5)(A), the term "greatest economic need" means the need resulting from an income level at or below the poverty threshold established by the Bureau of the Census and the term "greatest social need" means the need caused by noneconomic factors which include physical and mental disabilities, language barriers, cultural or social isolation including that caused by racial or ethnic status which restricts an individual's ability to perform normal daily tasks or which threaten his or her capacity to live independently.]

(b)(1) * * *

(2)(A) * * *

* * * * *

(C) If a waiver is granted by a State agency to the area agency on aging, an individual or a service provider from the area with respect to which the waiver applies is entitled to appeal the decision of the State agency and to request a hearing on the decision to grant such

waiver. If such request is timely, the State agency shall afford such individual or provider an opportunity for such hearing.

(d) The assurance required by subsection (a)(2) is satisfied with respect to legal assistance only if—

(1) the area agency on aging expends for legal assistance for the fiscal year an amount that is sufficient to meet the relative need for legal assistance in relation to the need for other services provided under part B and equal to the expenditure of at least some funds; and

(2) such agency expends for the fiscal year for legal assistance not less than such area agency expended for legal assistance for fiscal year 1986.

(e) An area agency on aging may not require any provider of legal assistance under this title to reveal any information that is protected by the attorney-client privilege.

STATE PLANS

SEC. 307. (a) Except as provided in section 309(a), each State, in order to be eligible for grants from its allotment under this title for any fiscal year, shall submit to the Commissioner a State plan for a two-, three-, or four-year period determined by the State agency, with such annual revisions as are necessary, which meets such criteria as the Commissioner may by regulation prescribe. Each such plans ~~shall—~~ *shall comply with all of the following requirements:*

(1) The plan shall contain assurances that the State plan will be based upon area plans developed by area agencies on aging within the State designated under section 305(a)(2)(A) and that the State will prepare and distribute a uniform format for use by area agencies in developing area plans under section 306[;].

(2) The plan shall provide that each area agency on aging designated under section 305(a)(2)(A) will develop and submit to the State agency for approval an area plan which complies with the provisions of section 306[;].

(3)(A) The plan shall provide that the State agency will evaluate the need for supportive services (including legal assistance), nutrition services, and multipurpose senior centers within the State and determine the extent to which existing public or private programs meet such need; and

(B) The plan shall provide assurances that the State agency will spend in each fiscal year, for services to older individuals residing in rural areas in the State assisted under this title, an amount equal to not less than 105 percent of the amount expended for such services (including amounts expended under title V and title VII) in fiscal year 1978[;].

(4) The plan shall provide for the use of such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Commissioner shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods) as

are necessary for the proper and efficient administration of the plan, and, where necessary, provide for the reorganization and reassignment of functions to assure such efficient administration [;].

(5) *The plan shall provide that the State agency will afford an opportunity for a hearing upon request to any agency on aging submitting a plan under this title, to any provider of a service under such a plan, or to any applicant to provide a service under such a plan [;].*

(6) *The plan shall provide that the State agency will make such reports, in such form, and containing such information, as the Commissioner may require, and comply with such requirements as the Commissioner may impose to insure the correctness of such reports [;].*

(7) *The plan shall provide satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this title to the State, including any such funds paid to the recipients of a grant or contract [;].*

(8) *The plan shall provide that the State agency will conduct periodic evaluations of, and public hearings on, activities and projects carried out under the State plan including an evaluation of the effectiveness of the State agency in reaching older individuals with the greatest economic or social needs, with particular attention to low-income minority individuals.*

(9) *The plan shall provide for establishing and maintaining information and referral services in sufficient numbers to assure that all older individuals in the State who are not furnished adequate information and referral services under section 306(a)(4) will have reasonably convenient access to such services [;].*

(10) *The plan shall provide that no supportive services or nutrition services and in-home services (as defined in section 342(1)), will be directly provided by the State agency or an area agency on aging, except where, in the judgment of the State agency, provision of such services by the State agency or an area agency on aging is necessary to assure an adequate supply of such services, or where such services are directly related to such State or area agency on aging's administrative functions or where such services of comparable quality can be provided more economically by such State or area agency on aging [;].*

(11) *The plan shall provide that subject to the requirements of merit employment systems of State and local governments, preference shall be given to individuals aged 60 or older for any staff positions (full time or part time) in State and area agencies for which such individuals qualify [;].*

(12) *If the plan does not contain the assurances specified in paragraph (22), the plan shall provide assurances that the State agency will—*

(A) establish and operate, either directly or by contract or other arrangement with any public agency or other appropriate private nonprofit organization, other than an

agency or organization which is responsible for licensing or certifying long-term care services in the State or which is an association (or an affiliate of such an association) of long-term care facilities (including any other residential facility for older individuals, an *Office of the State Long-Term Care Ombudsman* (in this paragraph referred to as the "Office") and shall carry out through the Office a long-term care ombudsman program which provides an individual who will, on a full-time basis—

(i) investigate and resolve complaints made by or on behalf of older individuals who are residents of long-term care facilities relating to administrative action which may adversely affect the health, safety, welfare, and rights of such residents;

• • • • •
(D) establish procedures to assure that any files maintained by the ombudsman having authority over the disposition of such files, except that the identity of any complainant or resident of a long-term care facility shall not be disclosed by such ombudsman unless—

(i) such complainant or resident, or his legal representative, consents in writing to such disclosure; or
(ii) such disclosure is required by court order; [and]

• • • • •
(F)(i) ensure that no individual involved in the designation of the long-term care ombudsman (whether by appointment or otherwise) or the designation of the head of any subdivision of the Office is subject to a conflict of interest;

(ii) ensure that no officer, employee, or other representative of the Office is subject to a conflict of interest; and

(iii) ensure that mechanisms are in place to identify and remedy any such or other similar conflicts;

(G)(i) ensure that no representative of the Office will be liable under State law for the good faith performance of official duties;

(ii) ensure that adequate legal counsel is available to the Office for advice and consultation and that legal representation is be provided to any representative of the Office against whom suit or other legal action is brought in connection with the performance of such representative's official duties; and

(iii) ensure that the Office has the ability to pursue administrative, legal, and other appropriate remedies on behalf of residents of long-term care facilities;

(H)(i) ensure that willful interference with representatives of the Office in the performance of their official duties (as defined by the Commissioner) shall be unlawful;

(ii) prohibit retaliation and reprisals by a long-term care facility or other entity with respect to any resident or employee for having filed a complaint with, or providing information to, the Office; and

(iii) provide for appropriate sanctions with respect to such interference, retaliation, and reprisals;

(iv) ensure that representatives of the Office shall have—

(I) access to long-term care facilities and their residents; and

(II) with the permission of a resident or resident's legal guardian, have access to review the resident's medical and social records or, if a resident is unable to consent to such review and has no legal guardian, appropriate access to the resident's medical and social records;

(I) require the Office to—

(i) prepare an annual report containing data and findings regarding the types of problems experienced and complaints received by or on behalf of individuals residing in long-term care facilities, and to provide policy, regulatory, and legislative recommendations to solve such problems and resolve such complaints and improve the quality of care and life in long-term care facilities;

(ii) analyze and monitor the development and implementation of Federal, State, and local laws, regulations, and policies with respect to long-term care facilities and services in that State, and recommend any changes in such laws, regulations, and policies deemed by the Office to be appropriate;

(iii) provide information to public agencies, legislators, and others, as deemed necessary by the Office, regarding the problems and concerns, including recommendations related to such problems and concerns, of older individuals residing in long-term care facilities;

(iv) provide for the training of the Office staff, including volunteers and other representatives of the Office, in—

(I) Federal, State and local laws, regulations, and policies with respect to long-term care facilities in the State;

(II) investigative techniques; and

(III) such other matters as the State deems appropriate;

(v) coordinate ombudsman services with the protection and advocacy systems for individuals with developmental disabilities and mental illness established under part A of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001 et seq.) and under the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (Public Law 99-319); and

(vi) include any area or local ombudsman entity designate by the State Long-Term Care Ombudsman as a subdivision of the Office. Any representative of an entity designated in accordance with the preceding sentence (whether an employee or an unpaid volunteer) shall be treated as a representative of the Office for purposes of this paragraph;

(J) prohibit any officer, employee, or other representative of the Office to investigate any complaint filed with the Office unless the individual has received such training as may be required under subparagraph (IXiv) and has been approved by the long-term care ombudsman as qualified to investigate such complaints; and

(K) expend to carry out this paragraph, for each fiscal year in which the allotment for part B for the State is least equal to the allotment for fiscal year 1987 for part B for such State, an amount which is not less than the amount expended by such State in fiscal year 1987 to carry out this paragraph as in effect before the effective date of the Older Americans Act Amendments of 1987.

(13) The plan shall provide with respect to nutrition services that—

(A) * * *

* * * * *

(I) each area agency shall establish procedures that will allow nutrition project administrators the option to offer a meal, on the same basis as meals are provided to elderly participants, to individuals providing volunteer services during the meal hours [;].

(14) The plan shall provide, with respect to the acquisition (in fee simple or by lease for 10 years or more), alteration, or renovation of existing facilities (or the construction of new facilities in any area in which there are no suitable structures available, as determined by the State agency, after full consideration of the recommendations made by area agencies, to be a focal point for the delivery of services assisted under this title) to serve as multipurpose senior centers, that—

(A) * * *

(E) the plan contains assurances that the State agency will consult with the Secretary of Housing and Urban Development with respect to the technical adequacy of any proposed alteration or renovation [;].

(15) The plan shall provide that with respect to legal assistance—

(A) * * *

(C) the State agency will provide for the coordination of the furnishing of legal assistance to older individuals within the State, and provide advice and technical assistance in the provision of legal assistance to older individuals within the State and support the furnishing of training and technical assistance for legal assistance for older individuals; [and]

(D) the plan contains assurances, to the extent practicable, that legal assistance furnished under the plan will be in addition to any legal assistance for older individuals being furnished with funds from sources other than this Act and that reasonable efforts will be made to maintain existing levels of legal assistance for older individuals; and

(E) the plan contains assurances that if the State agency waives the requirement described in section 306(a)(2)(C), the State agency will provide to the Commissioner—

(i) a report regarding such waiver that details the demonstration made by the area agency on aging to obtain such waiver;

(ii) a copy of the record of the public hearing conducted pursuant to section 306(b)(2)(A); and

(iii) a copy of the record of any public hearing conducted pursuant to section 306(b)(2)(C).

(16) The plan shall provide that whenever the State desires to provide for services for the prevention of abuse of older individuals—

(A) * * *

(C) all information gathered in the course of receiving reports and making referrals shall remain confidential unless all parties to the complaint consent in writing to the release of such information except that such information may be released to a law enforcement or public protective service agency[;].

(17) The plan shall provide assurances that each State will provide inservice training opportunities for personnel of agencies and programs funded under this Act[;].

(18) The plan shall provide assurances that each State will assign personnel to provide State leadership in developing legal assistance programs for older individuals throughout the State;

(19) The plan shall provide with respect to education and training services, assurances that area agencies on aging may enter into grants and contracts with providers of education and training services which can demonstrate the experience or capacity to provide such services (except that such contract authority shall be effective for any fiscal year only to such extent, or in such amounts, as are provided in appropriations Act,)[;] and

(20) The plan shall provide assurances that, if a substantial number of the older individuals residing in any planning and service area in the State are of limited English-speaking ability, then the State will require the area agency on aging for each such planning and service area—

(A) to utilize in the delivery of outreach services under [section 306(a)(2)(A),] sections 306(a)(2)(A) and 306(a)(6)(N), the services of workers who are fluent in the language spoken by a predominant number of such older individuals who are of limited English-speaking ability; and

(B) to designate an individual employed by the area agency on aging, or available to such area agency on aging on a full-time basis, whose responsibilities will include—

(i) * * *

(ii) providing guidance to individuals engaged in the delivery of supportive services under the area plan involved to enable such individuals to be aware of cultural sensitivities and to take into account effectively linguistic and cultural differences[; and].

(21) *The plan shall provide that the State agency, from funds allotted under section 304(a) for part B will use [an amount equal to an amount] not less than 1 percent of such allotment or \$20,000, whichever is greater, for the purpose of carrying out the provisions of clause (12), except that (A) the requirement of this clause shall not apply in any fiscal year in which a State spends from State or local sources an amount equal to the amount required to be spent by this clause; and (B) the provisions of this clause shall not apply to American Samoa, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.*

(22) *The plan shall, with respect to the fiscal year preceding the fiscal year for which such plan is prepared—*

(A) identify the number of low-income minority older individuals in the State; and

(B) describe the methods used to satisfy the service needs of such minority older individuals.

(23) *The plan shall provide assurances that the State agency will require outreach efforts that will—*

(A) identify older individuals who are eligible for assistance under this title, with special emphasis on older individuals with greatest economic need (with particular attention to low-income minority individuals), older individuals with greatest social need (with particular attention to low-income minority individuals), and older individuals who reside in rural areas; and

(B) inform such individuals of the availability of such assistance.

(24) *The plan shall provide that the State agency—*

(A) from funds allotted for fiscal year 1989 under section 304(a) for part B that are attributable to the amount appropriated under section 303(a)(2), will make funds available to area agencies on aging to carry out section 306(a)(6)(N) and, in distributing such funds among area agencies, will give priority to area agencies based on—

(i) the number of older individuals with greatest economic need (as defined in section 302(13)) residing in their respective planning and service areas; and

(ii) the inadequacy in such areas of outreach activities and application assistance of the type specified in section 306(a)(6)(N); and

(B) will distribute to area agencies on aging—

(i) the eligibility information received under section 202(a)(20) from the Administration; and

(ii) information, in written form, explaining the requirements for eligibility to receive medical assistance under title XIX of the Social Security Act.

(25) *The plan shall provide assurances that area agencies on aging will conduct efforts to facilitate the coordination of community-based, long-term care services, pursuant to section 306(a)(6)(I), for older individuals who—*

(A) reside at home and are at risk of institutionalization because of limitations on their ability to function independently;

(B) are patients in hospitals and are at risk of prolonged institutionalization; or

(C) are patients in long-term care facilities, but who can return to their homes if community-based services are provided to them.

(26) The plan shall provide assurances that if the State receives funds appropriated under section 303(e), the State agency and area agencies on aging will expend such funds to carry out part E.

* * * * *

(g) Neither a State, nor a State agency, may require any provider of legal assistance under this title to reveal any information that is protected by the attorney-client privilege.

PLANNING, COORDINATION, EVALUATION, AND ADMINISTRATION OF STATE PLANS

SEC. 308. (a) * * *

(b)(1) **[(A)]** If for any fiscal year the aggregate amount appropriated under section 303 does not exceed \$800,000,000, then—

[(i)] (A) except as provided in clause (ii), the greater of 5 percent of the allotment to a State under section 304(a)(1) or \$300,000; and

[(ii)] (B) in the case of Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands, the greater of 5 percent of such allotment or \$75,000;

shall be available to such State to carry out the purposes of this section.

(2) **[(A)]** If for any fiscal year the aggregate amount appropriated under section 303 exceeds \$800,000,000, then—

[(i)] (A) except as provided in clause (ii), the greater of 5 percent of the allotment to a State under section 304(a)(1) or \$500,000; and

[(ii)] (B) in the case of Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands, the greater of 5 percent of such allotment or \$100,000;

shall be available to such State to carry out the purposes of this section.

(3)(A) * * *

* * * * *

(C) The Commissioner may approve the portion of the amount requested by a State in its application under subparagraph (A) which **[(he)]** the Commissioner determines has been justified in such application.

* * * * *

(5)(A) Notwithstanding any other provisions of this title and except as provided in subparagraph (B), with respect to funds received under subsection (a) and subsection (b) of section 303, a State

may elect to transfer not more than 20 per centum of the funds **[appropriated]** allotted for any fiscal year between programs under part B and part C of this title, for use as the State considers appropriate. The State shall notify the Commissioner of any such election.

(B) Of the funds received under section 303, a State may elect to transfer under subparagraph (A)—

(i) not more than 27 percent of the funds **[appropriated]** allotted for fiscal year 1985;

(i) not more than 29 percent of the funds **[appropriated]** allotted for fiscal year 1986; and

(i) not more than 30 percent of the funds **[appropriated]** allotted for fiscal year 1987 and each fiscal year thereafter.

SEC. 309. (a) * * *

(c) A State's allotment under section 304 for a fiscal year shall be reduced by the percentage (if any) by which its expenditures for such year from State sources under its State plan approved under section 307 are less than its *average annual expenditures* from such sources for the **[preceding fiscal year.]** *period of 3 fiscal years preceding such year.*

AVAILABILITY OF SURPLUS COMMODITIES

SEC. 311. (a)(1) * * *

(4) Subject to the authorization of appropriations specified in subsection (c), in donating commodities under this subsection, the Secretary of Agriculture shall maintain an annually programmed level of assistance of not less than 56.76 cents per meal during **[fiscal year 1986 and during each fiscal year thereafter]** *fiscal years 1986 through 1991.* **[The amount specified in this paragraph shall be adjusted on an annual basis for each fiscal year after September 30, 1986, to reflect changes in the series for food away from home of the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor. Such adjustment shall be computed to the nearest one-fourth cent.]** Among the commodities delivered under this subsection, the Secretary shall give special emphasis to high protein foods, meat, and meat alternates. The Secretary of Agriculture, in consultation with the Commissioner, is authorized to prescribe the terms and conditions respecting the donating of commodities under this subsection.

(c)(1)(A)(i) * * *

(iii) *There are authorized to be appropriated \$151,000,000 for fiscal year 1988, \$166,000,000 for fiscal year 1989, \$183,000,000 for*

fiscal year 1990, and \$201,000,000 for fiscal year 1991, to carry out this section (other than subsection (a)(1)).

* * * * *

PART C—NUTRITION SERVICE

* * * * *

Subpart 2—Home Delivered Nutrition Services

* * * * *

CRITERIA

SEC. 337. The Commissioner, in consultation with organizations of and for the aged, blind, and disabled, and with representatives from the American Dietetic Association, the *National Association of Area Agencies on Aging*, the *National Association of Nutrition and Aging Service Programs*, the *National Association of Meals Programs, Incorporated*, and any other appropriate group, shall develop minimum criteria of efficiency and quality for the furnishing of home delivered meal services for projects described in section 336. The criteria required by this section shall take into account the ability of established home delivered meals programs to continue such services without major alteration in the furnishing of such services.

PART D—IN-HOUSE SERVICES FOR FRAIL OLDER INDIVIDUALS

PROGRAM AUTHORIZED

SEC. 341. With funds appropriated to carry out this part, the Commissioner shall carry out a program for making grants to States under State plans approved under section 307 to provide in-home services to frail older individuals, including in-home supportive services for older individuals who are victims of Alzheimer's disease and other neurological and organic brain disorders of the Alzheimer's type, and to the families of such victims.

DEFINITIONS

SEC. 342. For purposes of this part—

(1) the term "in-home service" means—

(A) homemaker and home health aides;

(B) visiting and telephone reassurance;

(C) chore maintenance;

(D) in-home respite care for families, including adult day care; or

(E) in-home supportive services for older individuals who are victims of Alzheimer's disease and other neurological and organic brain disorders of the Alzheimer's type, and the families of such victims; and

(2) the term "frail" means having a physical or mental disability, including having Alzheimer's disease or a neurological or organic brain disorder of the Alzheimer's type, that restricts the ability of an individual to perform normal daily tasks or

which threatens the capacity of an individual to live independently.

STATE CRITERIA

SEC. 343. The State agency shall develop eligibility criteria for providing in-home services to frail older individuals which shall take into account—

- (1) age;*
- (2) greatest economic need;*
- (3) noneconomic factors contributing to the frail condition;*
- and*
- (4) noneconomic and nonhealth factors contributing to the need for such services.*

MAINTENANCE OF EFFORT

SEC. 344. Funds made available under this part shall be in addition to, and may not be used to supplant, any funds that are or would otherwise be expended under any Federal, State, or local law by a State or unit of general purpose local government (including area agencies on aging which have in their planning and services areas existing services which primarily serve older individuals who are victims of Alzheimer's disease and other neurological and organic brain disorders of the Alzheimer's type, and the families of such victims).

PART E—ADDITIONAL ASSISTANCE FOR SPECIAL NEEDS OF OLDER INDIVIDUALS

PROGRAM AUTHORIZED

SEC. 351. With funds appropriated to carry out this part, the Commissioner shall carry out a program for making grants to States under State plans approved under section 307 to provide services, consistent with the purpose of this title, designed to satisfy special needs of older individuals. Such services include—

- (1) transportation associated with services provided under this title;*
- (2) outreach regarding such services;*
- (3) targeting such services to older individuals with greatest economic need or greatest social need;*
- (4) services under the ombudsman program established under section 307(a)(12); and*
- (5) any other service under this title—*
 - (A) for which the State demonstrates to satisfaction of the Commissioner that there is unmet need; and*
 - (B) which is appropriate to improve the quality of life of older individuals, particularly those with greatest economic need and those with greatest social need.*

TITLE IV—TRAINING, RESEARCH, AND DISCRETIONARY PROJECTS AND PROGRAMS

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ADMINISTRATION

SEC. 402. (a) * * *

(b) In carrying out the provisions of this title, the Commissioner may request the technical assistance and cooperation of the Department of Education, the National Institutes of Health, *Veterans' Administration*, and such other agencies and departments of the Federal Government as may be appropriate.

PART B—RESEARCH, DEMONSTRATIONS, AND OTHER ACTIVITIES

SPECIAL PROJECTS IN COMPREHENSIVE LONG-TERM CARE

SEC. 423. (a)(1) The Commissioner [may] shall—

(A) make grants to selected State agencies, designated under section 305(a)(1), and, in consultation with State agencies, selected area agencies on aging designated under section 305(a)(2)(A), institutions of higher education, and other public agencies and nonprofit private organizations, and

SERVICE CREDIT DEMONSTRATION PROGRAM

SEC. 427. (a) During the 4-year period beginning on the effective date of this section, the Commissioner shall make annual grants to not more than 5 eligible States to establish and carry out service credit demonstration projects.

(b) To be eligible to receive a grant under subsection (a), a State shall submit to the Commissioner, in accordance with such rules as the Commissioner may issue, an application that contains—

(1) an assurance that such State will establish and operate (directly or through community organizations) in all or part of such State a volunteer service credit project and a description of the service credit project proposed by such State;

(2) an assurance that such State will establish, or will authorize community organizations to establish, criteria for selecting individuals to whom volunteer services will be provided under such project;

(3) an assurance that such State will recruit and train (directly or through community organizations) volunteer individuals to provide services under such project;

(4) an assurance that such State will establish a minimum standard for each service to be provided by volunteers under such project;

(5) an assurance that such State will monitor services provided by volunteers under such project to ensure that standards established under paragraph (4) are met;

(6) an assurance that such State will—

(A) maintain with respect to each individual who provides services under such project a separately identifiable account showing the number of hours such individual provided services under such project; and

(B) make a good faith effort to provide to such individual or any beneficiary designated by or on behalf of such individual, in the area of operation of such project, one or more volunteer services of the type made available under such project, as specified and if requested by such individual or such beneficiary after becoming an older individual, during a period equal to the number of hours such individual provided services under such project;

(7) an estimate of the cost that will be incurred by such State to establish and provide volunteer services under the service credit project for which such grant is requested; and

(8) such information and other assurances as the Commissioner may require.

(c) Not later than 90 days after the end of the 1-year period for which a grant is made under subsection (a), the State which receives such grant shall submit to the Commissioner a report that—

(1) describes in detail the operation of the volunteer service credit project for which such grant is received;

(2) specifies each type of service provided by volunteers under such project;

(3) specifies with respect to each such type of service—

(A) the number of volunteers who provided such service;

(B) the aggregate number of hours of service provided by all such volunteers; and

(C) the number of individuals who requested services in return for the credits earned under such project, and the number of hours of volunteer services provided to such individuals;

(4) evaluates the extent to which such project achieved the purposes for which such project is established; and

(5) contains such other information as the Commissioner may require.

Not later than 180 days after the end of such 1-year period, the Commissioner shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report summarizing the contents of the reports submitted under this subsection by States for such year.

(d) For purposes of this section—

(1) the term "volunteer service credit project" means a project under which homemaker services, respite care for families, adult day care, educational, and transportation and delivery services are provided by—

(A) volunteer older individuals for the benefits of older individuals or low-income children, or

(B) volunteer individuals of any age for the benefit of older individuals,

in return for the opportunity to receive similar services after such volunteers become older individuals, and

(2) the term "beneficiary" means an individual who is designated—

(A) by a volunteer who provides services under a volunteer service credit project; of

(B) by an organization selected by such volunteer to receive services to which such volunteer could receive under this section as a result of providing services.

STUDY OF TRANSPORTATION SERVICES

SEC. 428. (a) By contract with a public agency or nonprofit private organization, the Commissioner shall conduct a study to determine for fiscal year 1988—

(1) the extent to which funds made available to carry out this Act (other than title V) were expended to provide, directly or indirectly, transportation services for the benefit of older individuals (as defined in section 302(10));

(2) the extent to which funds made available to carry out title V were expended to provide, directly or indirectly, transportation services for the benefit of eligible individuals (as defined in section 507(2)); and

(3) the relative importance of such transportation services to individuals for whose benefit they are provided.

(b) Not later than March 31, 1989, the Commissioner shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report—

(1) summarizing the results of the study conducted under subsection (a); and

(2) containing the recommendations of the Commissioner for improving the delivery and coordination of transportation services provided under this Act.

(c) For purposes of this section—

(1) a transportation service provided directly means transportation of individuals to participate in a service or activity (other than employment) provided under this Act; and

(2) a transportation service provided indirectly includes transportation of eligible individuals in connection with employment provided under title V and transportation (including the use of private vehicles and the value of staff time devoted to managing and providing transportation services) incidental to delivering goods and services under this Act to individuals.

PART C—GENERAL PROVISIONS

AUTHORIZATION OF APPROPRIATIONS

SEC. 431. (a) There are authorized to be appropriated to carry out the provisions of this title [\$26,600,000 for fiscal year 1984, \$28,200,000 for fiscal year 1985, \$29,800,000 for fiscal year 1986, and] \$31,400,000 for fiscal year 1987, \$32,970,000 for fiscal year 1988, \$34,619,000 for fiscal year 1989, \$36,349,000 for fiscal year 1990, and \$38,167,000 for fiscal year 1991.

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TITLE V—COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

.

OLDER AMERICAN COMMUNITY SERVICE EMPLOYMENT PROGRAM

SEC. 502. (a) * * *

(c)(1) * * *

[(3) Of the amount for any project to be paid by the Secretary under this subsection, not more than—

[(A) 13.5 percent for fiscal year 1986, and

[(B) 12 percent for fiscal year 1987, and thereafter,

shall be available for paying the costs of administration for such project, except that whenever the Secretary determines that it is necessary to carry out the project assisted under this title, based upon information submitted by the public or private nonprofit agency or organization with which the Secretary has an agreement under subsection (b), the Secretary may increase the amount available for paying the cost of administration to an amount not more than 15 percent of the cost of such project.]

(3) *Of the amount for any project to be paid by the Secretary under this subsection, not more than 13.5 percent for fiscal year 1987 and each fiscal year thereafter shall be available for paying the costs of administration for such project, except that—*

(A) *whenever the Secretary determines that it is necessary to carry out the project assisted under this title, based on information submitted by the public or private nonprofit agency or organization with which the Secretary has an agreement under subsection (b), the Secretary may increase the amount available for paying the cost of administration to an amount not more than 15 percent of the cost of such project, and*

(B) *whenever the public or private nonprofit agency or organization with which the Secretary has an agreement under subsection (b), demonstrates to the Secretary that—*

(i) *major administrative cost increases are being incurred in necessary program components, including liability insurance, payments for workmen's compensation, costs associated with achieving unsubsidized placement goals, and other operation requirements imposed by the Secretary;*

(ii) *the number of employment positions in the project or the number of minority eligible individuals participating in the project will decline if the amount available for paying the cost of administration is not increased; or*

(iii) *the size of the project is so small that the amount of administrative expenses incurred to carry out the project necessarily exceed 13.5 percent of the amount for such project;*

the Secretary shall increase the amount available for the fiscal year for paying the cost of administration to an amount not more than 15 percent of the cost of such project.

* * * * *

EQUITABLE DISTRIBUTION OF ASSISTANCE

SEC. 506. (a)(1) * * *

(4) For the purpose of this subsection—

(A) the allotment percentage of each State shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States, except that (i) the allotment percentage shall in no case be more than 75 per centum or less than $33\frac{1}{3}$ per centum, and (ii) the allotment percentage for the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands shall be 75 per centum;

DEFINITIONS

SEC. 507. As used in this title—

[(1) the term "State" means any of the several States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the Trust Territory of the Pacific Islands;]

[(2)] (1) the term "eligible individual" means an individual who is fifty-five years old or older, who has a low income (including any such individual whose income is not more than 125 per centum of the poverty guidelines established by the Bureau of Labor Statistics), except that, pursuant to regulations prescribed by the Secretary, any such individual who is sixty years old or older shall have priority for the work opportunities provided for under this title;

[(3)] (2) the term "community service" means social, health, welfare, and educational services (*particularly literacy tutoring*), legal and other counseling services and assistance, including tax counseling and assistance and financial counseling, and library, recreational, and other similar services; conservation, maintenance, or restoration of natural resources; community betterment or beautification; antipollution and environmental quality efforts; weatherization activities; economic development; and such other services essential and necessary to the community as the Secretary, by regulation, may prescribe; and

[(4)] (3) the term "program" means the older American community service employment program established under this title.

AUTHORIZATION OF APPROPRIATIONS

SEC. 508. (a) There is authorized to be appropriated to carry out this title—

(1) [\$319,450,000 for fiscal year 1984, \$335,000,000 for fiscal year 1985, \$351,400,000 for fiscal year 1986, and] \$368,300,000 for fiscal year 1987, \$386,715,000 for fiscal year 1988,

\$406,051,000 for fiscal year 1989, \$426,353,000 for fiscal year 1990, and \$447,671,000 for fiscal year 1991; and

EMPLOYMENT ASSISTANCE AND FEDERAL HOUSING PROGRAMS

SEC. 509. Funds received by eligible individuals from projects carried out under the program established in this title shall not be considered to be income or resources of such individuals for purposes of determining the eligibility of such individuals, or of any other persons, to participate in any housing program for which Federal funds may be available.

TITLE VI—GRANTS FOR INDIAN TRIBES

ELIGIBILITY

SEC. 602. (a) A tribal organization of an Indian tribe is eligible for assistance under this title only if—

(1) the tribal organization represents at least 60 individuals who have attained 60 years of age or older; and

(2) the tribal organization demonstrates the ability to deliver supportive services, including nutritional services [; and].

[(3) individuals to be served by the tribal organization will not receive for the year for which application under this title is made, services under title III.]

GRANTS AUTHORIZED

SEC. 603. The Commissioner may make grants to eligible tribal organizations to pay all of the costs for delivery of supportive services and [nutritional] nutrition services for older Indians.

APPLICATIONS

SEC. 604. (a) No grant may be made under this title unless the eligible tribal organization submits an application to the Commissioner which meets such criteria as the Commissioner may by regulation prescribe. Each such application shall—

(1) provide that the eligible tribal organization will evaluate the need for [social and nutritional] supportive and nutrition services among older Indians to be represented by the tribal organization:

(8) provide assurances that either directly or by way of grant or contract with appropriate entities [nutritional] nutrition services will be delivered to older Indians represented by the tribal organization substantially in compliance with the provisions of part C of title III, except that in any case in which the need for nutritional services for older Indians represented by the tribal organization is already met from other sources, the tribal organization may use the funds otherwise required to be expended under this clause for supportive services;

(e) Whenever the Commissioner approves an application of a tribal organization under this title, funds shall be awarded for not less than 12 months[, during which time such tribal organization may not receive funds under title III].

SURPLUS EDUCATIONAL FACILITIES

SEC. 606. (a) Notwithstanding any other provision of law, the Secretary of the Interior through the Bureau of Indian Affairs shall make available surplus Indian educational facilities to tribal organizations, and nonprofit organizations with tribal approval, for use as multipurpose senior centers. Such centers may be altered so as to provide extended care facilities, community center facilities, [nutritional] nutrition services, child care services, and other supportive services.

AUTHORIZATION OF APPROPRIATIONS

SEC. 608. [(a)] There are authorized to be appropriated[, \$7,500,000 for fiscal year 1984, \$7,900,000 for fiscal year 1985, \$8,300,000 for fiscal year 1986, and] \$8,600,000 for fiscal year 1987, \$12,100,000 for fiscal year 1988, \$14,900,000 for fiscal year 1989, \$17,700,000 for fiscal year 1990, and \$20,600,000 for fiscal year 1991 to carry out the provisions of this title other than section 606.

[(b)] For any fiscal year in which less than \$5,000,000 is appropriated under subsection (a) tribal organizations are authorized to receive assistance in accordance with the provisions of title III.]

TITLE VII—OLDER AMERICANS PERSONAL HEALTH EDUCATION AND TRAINING PROGRAM

AUTHORIZATION OF APPROPRIATIONS

SEC. 706. (a) There are authorized to be appropriated to carry out this title [\$8,550,000 for fiscal year 1985 and] such sums as may be necessary for fiscal years 1986 [and 1987.], 1987, 1988, 1989, 1990, and 1991.

NATIVE AMERICAN PROGRAMS ACT OF 1974

FINANCIAL ASSISTANCE FOR NATIVE AMERICAN PROJECTS

SEC. 803. (a) The Secretary is authorized to provide financial assistance, on a single year or multiyear basis, to public and nonprofit private agencies, including but not limited to, governing bodies of Indian tribes on Federal and State reservations, Alaskan Native villages and regional corporations established by the Alaska Native

Claims Settlement Act, and such public and nonprofit private agencies serving Hawaiian Natives, and Indian organizations in urban or rural nonreservation areas, for projects pertaining to the purposes of this title. In determining the projects to be assisted under this title, the Secretary shall consult with other Federal agencies for the purpose of eliminating duplication or conflict among similar activities or projects and for the purpose of determining whether the findings resulting from those projects may be incorporated into one or more programs for which those agencies are responsible. Every determination made with respect to a request for financial assistance under this section shall be made without regard to whether the agency making such request serves, or the project to be assisted is for the benefit of, Indians who are not members of a federally recognized tribe. To the greatest extent practicable, the Secretary shall ensure that each project to be assisted under this title is consistent with the priorities established by the agency which receives such assistance.

* * * * *

REVIEW OF APPLICATIONS FOR ASSISTANCE

SEC. 806. (a)(1) The Secretary shall establish a formal review process for purposes of evaluating applications for financial assistance under sections 803 and 805 and of determining the relative merits of the projects for which such assistance is requested.

(2) Members of review panels shall be appointed by the Secretary from among individuals who are not officers or employees of the Administration for Native Americans. In making appointments to such panels, the Secretary shall give preference to American Indians, Hawaiian Natives, and Alaskan Natives.

(b) Each review panel established under subsection (a)(2) that reviews any application for financial assistance shall—

(1) determine the merit of each project described in such application;

(2) rank such application with respect to all other applications it reviews for the fiscal year involved, according to the relative merit of all of the projects that are described in such application and for which financial assistance is requested; and

(3) submit to the Secretary a list that identifies all applications reviewed by such panel and arranges such applications according to rank determined under paragraph (2).

(c) Whenever the Secretary approves an application for financial assistance under section 803 or 805, the Secretary shall transmit to the Speaker of the House of Representatives and the President pro tempore of the Senate, on the request of either, written notice—

(1) identifying such application;

(2) containing a copy of the list submitted to the Secretary under subsection (b)(3) in which such application is ranked;

(3) specifying which other applications ranked in such list have been approved by the Secretary under sections 803 and 805; and

(4) if the Secretary has not approved each application superior in merit, as indicated on such list, to the application with re-

spect to which such notice is transmitted, containing a statement of the reasons relied upon by the Secretary for—

(A) approving the application with respect to which such notice is transmitted; and

(B) failing to approve each pending application that is superior in merit, as indicated on such list, to the application described in subparagraph (A).

ANNOUNCEMENT OF RESEARCH, DEMONSTRATION, OR PILOT PROJECTS

SEC. [806.] 807. (a) The Secretary shall make a public announcement concerning—

(1) the title, purpose, intended completion date, identity of the grantee or contractor, and proposed cost of any grant or contract with a private or non-Federal public agency for a research, demonstration, or pilot project; and

* * * * *

SUBMISSION OF PLANS TO STATE AND LOCAL OFFICIALS

SEC. [807.] 808. (a) No financial assistance may be provided to any project under section 803 of this title or any research, demonstration, or pilot project under section 805 of this title, which is to be carried out on or in an Indian reservation or Alaskan Native village, unless a plan setting forth the project has been submitted to the governing body of that reservation or village and plan has not been disapproved by the governing body within thirty days of its submission.

* * * * *

RECORDS AND AUDITS

SEC. [808.] 809. (a) Each agency which receives financial assistance under this title shall keep such records as the Secretary may prescribe, including records which fully disclose the amount and disposition by that agency of such financial assistance, the total cost of the project in connection with which such financial assistance is given or used, the amount of that portion of the cost of the project supplied by other sources, and such other records as will facilitate an effective audit.

* * * * *

APPEALS, NOTICE, AND HEARING

SEC. [809.] 810. The Secretary shall prescribe procedures to assure that—

(1) financial assistance under this title shall not be suspended, except in emergency situations, unless the assisted agency has been given reasonable notice and opportunity to show cause why such action should not be taken; and

* * * * *

EVALUATION

SEC. [810.] 811. The Secretary shall provide, directly or through grants or contracts, for the evaluation of projects assisted under this title, including evaluations that describe and measure the impact of such projects, their effectiveness in achieving stated goals, their impact on related programs, and their structure and mechanisms for delivery of services, including, where appropriate, comparisons with appropriate control groups composed of persons who have not participated in such projects. Evaluations shall be conducted by persons not directly involved in the administration of the program or project evaluated.

* * * * *

LABOR STANDARDS

SEC. [811.] 812. All laborers and mechanics employed by contractors or subcontractors in the construction, alteration, or repair, including painting or decorating, of buildings or other facilities in connection with projects assisted under this title, shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 15 of 1950, and section 2 of the Act of June 1, 1934.

* * * * *

ADMINISTRATION; DELEGATION OF AUTHORITY

SEC. [812.] 813. (a)(1) The general administration of the programs authorized by this Act shall remain within the Department of Health and Human Services and, notwithstanding any authority under any other law, may not be transferred outside of such Department.

* * * * *

ADDITIONAL REQUIREMENTS APPLICABLE TO RULE MAKING

SEC. 814. (a) Notwithstanding subsection (a) of section 553 of title 5, United States Code, and except as otherwise provided in this section, such section 553 shall apply with respect to the establishment and general operation of any program that provides loans, grants, benefits or contracts authorized by this title.

(b)(1) The last sentence of section 553(b) of title 5, United States Code, shall not apply with respect to any rule (including any interpretative rule) or any general statement of policy that is—

(A) proposed under this title; or

(B) applicable to any program, project, or activity authorized by, or carried out under, this title.

(2) The first 2 sentences of section 553(b) of title 5, United States Code, shall apply with respect to any rule (including any interpretative rule) or any general statement of policy that is—

(A) proposed under this title; or

(B) applicable to any program, project, or activity authorized by, or carried out under, this title; unless the Secretary for good cause finds (and incorporates the finding and a brief statement of the reasons therefor in such rule or such general statement of policy issued) that notice and public procedure thereon are contrary to the public interest or would impair the effective administration of any program, project, or activity with respect to which such rule or such general statement of policy is issued.

(c) Notwithstanding section 553(d) of title 5, United States Code, no rule (including an interpretative rule) or general statement of policy that—

(1) is issued to carry out this title; or

(2) applies to any program, project, or activity authorized by, or carried out under, this title;

may take effect until 30 days after the publication required under the first 2 sentences of section 553(b) of title 5, United States Code.

(d) Each rule (including an interpretative rule) and each general statement of policy to which this section applies shall contain after each of its sections, paragraphs, or similar textual units a citation to the particular provision of statutory or other law that is the legal authority for such section, paragraph, or unit.

(e) Except as provided in subsection (c), if as a result of the enactment of any law affecting the administration of this title it is necessary or appropriate for the Secretary to issue any rule (including any interpretative rule) or a general statement of policy, the Secretary shall issue such rule or such general statement of policy not later than 180 days after the date of the enactment of such law.

(f) Whenever any agency publishes in the Federal Register a rule (including an interpretative rule) or a general statement of policy to which subsection (c) applies, such agency shall transmit a copy of such rule or such general statement of policy to the Speaker of the House of Representatives and the President pro tempore of the Senate.

DEFINITIONS

SEC. [813.] 815. As used in this title, the term—

(1) * * *

* * * * *

(3) "Native Hawaiian" means any individual any of whose ancestors were natives of the area which consists of the Hawaiian Islands prior to 1778; [and]

(4) the term "rule" has the meaning given it in section 551(4) of title 5, United States Code, as amended from time to time; and

[(4)] (5) "Secretary" means the Secretary of Health and Human Services.

AUTHORIZATION OF APPROPRIATIONS

SEC. [814.] 816. (a) There are authorized to be appropriated for the purpose of carrying out the provisions of this title, such sums as may be necessary for fiscal years 1979 through [1986] 1991.

SECTION 17 OF THE NATIONAL SCHOOL LUNCH ACT

CHILD CARE PROGRAM

SEC. 17. (a) * * *

(p)(1) For purposes of this section, adult day care centers shall be considered eligible institutions for reimbursement for meals or supplements served to persons 60 years of age or older or to chronically impaired disabled persons, including victims of Alzheimer's disease or other neurological and organic brain disorders of the Alzheimer's type. Reimbursement provided to such institutions for such purposes shall supplement, not supplant, funds provided for such purposes on the effective date of this subsection, unless the quality of meals or level of services provided is improved through participation in the program.

(2) For purposes of this subsection—

(A) the term "adult day care center" means any public agency or private nonprofit organization, or any proprietary title XIX or title XX center, which—

(i) is licensed or approved by Federal, State, or local authorities to provide adult day care services to chronically impaired disabled adults or persons 60 years of age or older in a group setting outside their homes on a less than 24-hour basis; and

(ii) provides for such care and services directly or under arrangements made by the agency or organization whereby the agency or organization maintains professional management responsibility for all such services; and

(B) the term "proprietary title XIX or title XX center" means any private, for-profit center providing adult day care services for which it receives compensation from amounts granted to the States under titles XIX or XX of the Social Security Act and which title XIX or title XX beneficiaries were not less than 25 per cent of enrolled eligible participants in a calendar month preceding initial application or annual reapplication for program participation.

(3) The Secretary of Agriculture, in consultation with the Commissioner on Aging, may establish separate guidelines for institutions described in this subsection.

MINORITY VIEWS

The Older Americans Act of 1965 is the basis for a nationwide aging network that provides social services to our nation's elderly. We strongly support reauthorization of the Act, and for the most part, we have no serious disagreements with the Majority on the provisions of H.R. 1451.

The bill, in general, improves and strengthens the Act. In particular, we applaud the new initiatives emphasizing in-home services to the growing population of homebound, frail elderly. While concerned about creating new programs during a time of budget restraint, the dramatic increase in the number of frail elderly and the growing demands for in-home services warrants special consideration. We therefore support this program, which is authorized as a new Part D to Title III at \$25 million in Fiscal Year 1988.

We are also pleased that the bill does not unnecessarily restrict the flexibility of State and local agencies on aging and service providers to meet the unique needs of their communities. H.R. 1451 does not earmark any funds in the programs authorized, and it does not decrease the existing transfer authority States may use to shift funds among Title III programs to meet varying demands. We are hopeful that no such restrictions on funds will be adopted as the bill receives further consideration.

We are concerned, however, about the authorization levels established by this bill. H.R. 1451 sets authorizations, for Fiscal Years 1988 through 1991, increasing each authorization 5 percent each year above the previous year's authorization. While the 5 percent increase is not in itself excessive, because the authorizations are set in relation to prior authorization levels, the numbers are in many cases meaningless. It is unrealistic to believe that appropriations for Older Americans Act program will come anywhere close to the levels authorized in this bill.

In our judgment, it should be the authorizing Committee that establishes the priorities and provides guidance to the Appropriations Committee on funding levels for these programs. We are disappointed that the authorization levels in this bill reflect an abandonment of this Committee's responsibility to make those decisions. FY 1988 authorization levels should provide a realistic target for appropriations and out-year authorizations should reflect the differing rates of increase in demand for various services authorized by the Act.

In addition, we are disappointed that the bill does not include authority for a much-discussed demonstration program to test the use of cost-sharing in limited Older American Act programs. It is clear that additional resources are needed to meet the needs of our growing elderly populations and that there is wide disparity in the income levels of this population. It is time to explore the possibility of charging fees on an ability to pay basis for services provided

under the Older Americans Act. The demonstration program envisioned would not "means test" the Older Americans Act; it would target new resources on those most in need and would demonstrate the impact of cost-sharing on participation in these programs. We urge further consideration of the cost-sharing demonstration proposal.

Finally, we note with some concern the number of studies mandated by H.R. 1451 to be carried out by the Administration on Aging or other governments agencies. While these studies are worthy in purpose, we are concerned about unnecessary burdens and restrictions on the discretion of the Administration and on the possibility of draining funds from services to carry out mandated studies.

TOM TAUKE.
TOM PETRI.
MARGE ROUKEMA.
PAUL HENRY.
FRED GRANDY.
CASS BALLENGER.

DISSENTING VIEWS OF MR. BARTLETT, MR. ARMEY, AND
MR. BALLENGER

While we share the Minority Views of our colleagues, and support reauthorization of the Older Americans Act, we do oppose the language adopted by the Committee relating to the advocacy responsibilities of State and area agencies on aging.

H.R. 1451 is explicit in stating that no restrictions will be imposed on State or area agencies "representing the interests of older individuals by reviewing, monitoring, evaluating, and commenting on Federal, State, and local plans, budgets, regulations, programs, laws levies, hearings, policies, and actions which affect or may affect older individuals and by recommending any changes in such local plans, budgets, regulations, programs, laws, levies, hearings, policies, and actions as the State agency considers to be appropriate (and no directive shall be considered to supersede the advocacy role of the State agency set forth in this Act), . . .".

The language contained in the bill could result in the public financing of lobbying activities. Although we support advocacy representation on behalf of the elderly, we oppose the use of Federal funds for both partisan activities and lobbying for or against legislative proposals.

RICHARD K. ARMEY.
CASS BALLENGER.
STEVE BARTLETT.

INDIVIDUAL VIEWS OF REPRESENTATIVE MARIO BIAGGI OF NEW YORK

The Committee on Education and Labor has produced an excellent bill in H.R. 1451. It provides for more than a reauthorization of the Older Americans Act. It is in fact a strong reaffirmation of Congress' support for maintaining the independence and dignity of millions of our senior citizens through the various community based social and human service programs operated by the Act. H.R. 1451 maintains the key traditions that have made the Older Americans Act the success story it has been these past 22 years. It keeps the program non-means tested, categorical, and maintaining eligibility at age 60 for Title III programs. The new bill bolsters the Act's commitment to serving the elderly "with the greatest economic or social need with particular attention to low income minority." It emphasizes the key role of outreach in the Act. Finally, the bill makes important improvements on the long term care ombudsman program and reasserts strong support for legal assistance programs.

TITLE IV TRANSFER ISSUE

As a strong supporter of aging research and training efforts, I am very concerned that the Administration on Aging and the Department of Health and Human Services has delayed the spending of \$12.5 million of the \$25 million appropriated by Congress for Title IV-Training, Research and Discretionary Projects and Programs under the Older Americans Act. Congress has no intention of allowing a transfer of any Title IV funds to any other programs, and any delay on the part of the Department of Health and Human Services or the Administration on Aging in order to wait for action from Congress allowing a transfer of funds from Title IV as requested in the Fiscal Year 1988 Budget Proposal is inappropriate.

I have and will continue to oppose any efforts by the Administration to take funds from Title IV and use those funds for other purposes. Title IV resources have received significant reductions since 1980, and any attempts to reduce the amount of funds used for the valuable research, training and discretionary projects conducted under this title are unwarranted.

The Secretary of Health and Human Services should immediately make all funds for Title IV of the Older Americans Act available to the Commissioner on Aging for use to provide grants and contracts as the process dictates need for those funds.

SEPARATE PROGRAM ANNOUNCEMENTS UNDER TITLE IV

I am concerned that the Office of Human Development Services' coordinated discretionary funds program announcement, which was

(66)

initiated in 1981, has reduced the Commissioner on Aging's role for establishing priorities for Title IV Training, Research and Discretionary Projects. Moreover, this development has 1) decreased accountability for Title IV activities and 2) produced less clarity concerning Title IV goals and priorities.

Prior to 1981, the Administration on Aging published a separate program announcement which clearly stated AoA's priorities and aging program categories to be funded each year. I strongly favor a return to the separate program announcement to reaffirm that AoA is fully responsible for overseeing and monitoring Title IV activities. This reinforces other Committee actions to strengthen the role of and increase the visibility of the Commissioner on Aging.

SECTION 432 (C) OF THE OLDER AMERICANS ACT OF 1965

In addition to my other interests regarding Title IV, I wish to reaffirm that section 432(c) of the Older Americans Act directs the Commissioner on Aging to consult with a designated State unit on aging when a grant or contract is awarded in that particular State. However, I want to clarify that a designated State unit on aging does not have "sign off" authority on a proposal which will operate in that State. The designated State unit on aging's role is merely advisory.

TRANSITIONING OF TITLE V PARTICIPANTS WORKING IN TITLE III NUTRITION PROJECTS

Over the last several years, there has been increasing emphasis on the transition of Title V participants into unsubsidized employment. Although the statute has never required numerical goals for transitioning of title V enrollees into unsubsidized or private employment, Department of Labor (DOL) regulations have set transition goals. Current Title V regulations set as a "goal" the transition into unsubsidized placement of an annual percentage of at least 20 percent of the positions supported by a given project.¹

While the Committee bill does not address the issue of transition of Title V participants into unsubsidized employment, I continue to be concerned about unnecessary turnover of Title V enrollees who work in nutrition services projects sponsored under Title III to other jobs. In the conference report on the Older Americans Act amendments of 1984, the Conferees directed DOL "to make every effort to exempt (or do so as a last resort) the transfer" of Title V enrollees who work in Title III services from unsubsidized employment transition efforts. It is important to continue to emphasize that because Title V participants who work in Title III nutrition services projects are a valuable source of labor, they therefore should not be subject to transition efforts that Title V sponsors undertake.

¹ This requirement is included in draft Department of Labor regulations published on July 19, 1985 (Federal Register, v. 50, no. 139). Although these regulations have not been published in final form, DOL grant application guidelines for title V funds have incorporated these regulations.

SINGLE ORGANIZATIONAL UNITS SEC. 305 (C) (2) (3) AND (4)

The current Older Americans Act statute states that Area Agencies on Aging will be a visible focal point within their communities to best serve the elderly and advocate in their behalf. I believe that when an Area Agency is housed within a larger sponsoring agency, it should be a "single organizational unit" within it. This will assure its visibility within the community.

This in no way prohibits the placement of an Area Agency within an "umbrella agency" such as city or county human service department, council of governments, or regional planning district.

GUIDELINES FOR PROVIDING LEGAL ASSISTANCE

In providing legal assistance, priority should be given to the following areas of law: income maintenance, health care including long term care, (including assistance for nursing home and board and care facility residents), nutrition, freedom from discrimination, housing (including utilities), consumer protection, employment, protective services and adult abuse, unless these areas are adequately addressed by existing legal assistance. Community education and/or information and referral by themselves do not constitute legal assistance.

